

AMENDED IN ASSEMBLY JUNE 9, 2008
AMENDED IN ASSEMBLY AUGUST 20, 2007
AMENDED IN ASSEMBLY JULY 17, 2007
AMENDED IN ASSEMBLY JULY 2, 2007
AMENDED IN SENATE MAY 24, 2007
AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

~~An act to amend Sections 146, 149, and 473.1 of the Business and Professions Code, and to add and repeal Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor. An act to amend Sections 101, 146, 149, 473.1, 2902, 2914, 4038, 4841.5, 4939, 4980.40, 7313, 7362, 7395.1, 7407, and 8027 of, to amend and repeal Section 4980.37 of, and to add Sections 115.5, 4980.36, and 4980.78 to, the Business and Professions Code, to add and repeal Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, and to add Section 11105.8 to the Vehicle Code, relating to postsecondary education, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as amended, Perata. ~~Private postsecondary education: California Private Postsecondary Education Act of 2007. California Private Postsecondary Education Act of 2008.~~

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions.

The former act established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. Existing law extends the existence of these funds until July 1, 2008. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes. A provision provided for the act's repeal on January 1, 2008.

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2008. The bill would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs as a successor agency to the former bureau. The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund, which the bill would rename the Private Postsecondary Education Administration Fund, and the continuously appropriated Student Tuition Recovery Fund, and would also provide that certain violations of the new act would be punishable as infractions. The bill would impose reporting requirements on the bureau and the office of the Legislative Analyst regarding bureau compliance within this act. The bill would also express the intent of the Legislature that the Bureau of State Audits conducts an audit that assesses the extent the requirements of this act are met.

The bill would provide that the California Private Postsecondary Education Act of 2008 be repealed on January 1, 2015. Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) Existing law provides for the licensure or registration and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences and requires that applicants for licensure or registration, among other requirements, possess a doctor's or master's degree from a specified school, college, or university, containing no less than 48 semester or 72 quarter units of instruction in specified areas. Existing law requires that the doctor's or master's degree program contain no less than 6 semester or 9 quarter units of supervised

practicum, as specified, and requires that the practicum include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups. Existing law also requires the degree program to satisfy certain criteria in order to meet the educational qualifications for licensure.

This bill would limit the application of these requirements to applicants for licensure or registration who begin graduate study before August 1, 2012, and would impose additional requirements on applicants who do not complete that study on or before December 31, 2018, on applicants who graduate from a degree program that meets those requirements, and on those who begin graduate study on or after August 1, 2012. The bill would require that these applicants, among other things, possess a doctor's or master's degree containing no less than 60 semester or 90 quarter units of instruction in certain areas, including, but not limited to, co-occurring disorders, multicultural development and cross-cultural interaction, and an understanding of the effects of socioeconomic status on treatment and available resources, as specified. The bill would require that these units include 6 semester or 9 quarter units of practicum that provides training in specified areas and includes a minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. The bill would additionally, with respect to these applicants, revise the requirements needed for the degree program to meet the educational qualifications for licensure, as specified.

(3) Existing law authorizes the board to issue a license to a person who has held for at least 2 years a valid license issued by a board of marriage counselor examiners, or corresponding authority of any state, if, among other requirements, the education and supervised experience requirements are substantially equivalent. Existing law requires the board to accept experience gained outside of California toward the licensure requirements if it is substantially equivalent and the applicant has gained a specified number of hours of supervised experience in direct counseling within California while registered with the board as an intern. Existing law also requires the board to accept education gained outside of California toward the licensure requirements if it is substantially equivalent, as specified, and the applicant completes certain coursework or training. If an applicant's education does not contain the content or units required to obtain a license, existing law authorizes the board to accept the applicant's education as substantially equivalent if, among other requirements, the applicant remediates the

deficiency by completing the course content or units required to obtain a license.

This bill would revise the requirements applicable to persons applying for a license on or after January 1, 2014. Among other things, the bill would revise the requirements needed for a person's education to be substantially equivalent, as specified.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally set forth minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act established in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, was required to review and investigate all institutions, programs, and courses of instruction approved under the act.~~

~~The act established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specified that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act were punishable as crimes.~~

~~The act became inoperative on July 1, 2007, and will be repealed on January 1, 2008.~~

~~This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would provide that the board would generally succeed to the duties assigned to the bureau under the 1989 act. The bill would repeal the California Private Postsecondary Education Act of 2007 on January 1, 2015.~~

~~The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an~~

~~appropriation. Certain violations of the new act would be punishable as crimes, thereby establishing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 101 of the Business and Professions Code*
2 *is amended to read:*
3 101. The department is comprised of:
4 (a) The Dental Board of California.
5 (b) The Medical Board of California.
6 (c) The State Board of Optometry.
7 (d) The California State Board of Pharmacy.
8 (e) The Veterinary Medical Board.
9 (f) The California Board of Accountancy.
10 (g) The California Architects Board.
11 (h) The Bureau of Barbering and Cosmetology.
12 (i) The Board for Professional Engineers and Land Surveyors.
13 (j) The Contractors' State License Board.
14 (k) The Bureau for Private Postsecondary ~~and Vocational~~
15 Education.
16 (l) The Structural Pest Control Board.
17 (m) The Bureau of Home Furnishings and Thermal Insulation.
18 (n) The Board of Registered Nursing.
19 (o) The Board of Behavioral Sciences.
20 (p) The State Athletic Commission.
21 (q) The Cemetery and Funeral Bureau.
22 (r) The State Board of Guide Dogs for the Blind.
23 (s) The Bureau of Security and Investigative Services.
24 (t) The Court Reporters Board of California.
25 (u) The Board of Vocational Nursing and Psychiatric
26 Technicians.
27 (v) The Landscape Architects Technical Committee.
28 (w) The Bureau of Electronic and Appliance Repair.

- 1 (x) The Division of Investigation.
- 2 (y) The Bureau of Automotive Repair.
- 3 (z) The State Board of Registration for Geologists and
- 4 Geophysicists.
- 5 (aa) The Respiratory Care Board of California.
- 6 (ab) The Acupuncture Board.
- 7 (ac) The Board of Psychology.
- 8 (ad) The California Board of Podiatric Medicine.
- 9 (ae) The Physical Therapy Board of California.
- 10 (af) The Arbitration Review Program.
- 11 (ag) The Committee on Dental Auxiliaries.
- 12 (ah) The Hearing Aid Dispensers Bureau.
- 13 (ai) The Physician Assistant Committee.
- 14 (aj) The Speech-Language Pathology and Audiology Board.
- 15 (ak) The California Board of Occupational Therapy.
- 16 (al) The Osteopathic Medical Board of California.
- 17 (am) The Bureau of Naturopathic Medicine.
- 18 (an) Any other boards, offices, or officers subject to its
- 19 jurisdiction by law.

20 *SEC. 2. Section 115.5 is added to the Business and Professions*
21 *Code, to read:*

22 *115.5. The department may design and administer a process*
23 *for the approval of programs offered to veterans of the armed*
24 *forces, and for the approval and supervision of the institutions*
25 *offering programs to veterans, pursuant to any applicable act of*
26 *Congress and the regulations adopted pursuant to that act. For*
27 *purposes of this section, the Bureau for Private Postsecondary*
28 *Education:*

29 *(a) Is designated as the state approving agency for veterans'*
30 *institutions and veterans' programs, and is authorized to be*
31 *reimbursed for its services in this regard.*

32 *(b) Has the same powers conferred on the Director of Education*
33 *by Article 6 (commencing with Section 12090) of Chapter 1 of*
34 *Part 8 of Division 1 of Title 1 of the Education Code, to enter into*
35 *agreements and cooperate with the United States Department of*
36 *Veterans Affairs, or any other federal agency, regarding approval*
37 *of programs, and the approval and supervision of institutions that*
38 *offer programs to veterans.*

39 *SEC. 3. Section 146 of the Business and Professions Code is*
40 *amended to read:*

1 146. (a) Notwithstanding any other provision of law, a
2 violation of any code section listed in subdivision (c) or (d) is an
3 infraction subject to the procedures described in Sections 19.6 and
4 19.7 of the Penal Code when:

5 (1) A complaint or a written notice to appear in court pursuant
6 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
7 2 of the Penal Code is filed in court charging the offense as an
8 infraction unless the defendant, at the time he or she is arraigned,
9 after being advised of his or her rights, elects to have the case
10 proceed as a misdemeanor, or

11 (2) The court, with the consent of the defendant and the
12 prosecution, determines that the offense is an infraction in which
13 event the case shall proceed as if the defendant has been arraigned
14 on an infraction complaint.

15 (b) Subdivision (a) does not apply to a violation of the code
16 sections listed in subdivisions (c) and (d) if the defendant has had
17 his or her license, registration, or certificate previously revoked
18 or suspended.

19 (c) The following sections require registration, licensure,
20 certification, or other authorization in order to engage in certain
21 businesses or professions regulated by this code:

22 (1) Sections 2052 and 2054.

23 (2) Section 2630.

24 (3) Section 2903.

25 (4) Section 3660.

26 (5) Sections 3760 and 3761.

27 (6) Section 4080.

28 (7) Section 4825.

29 (8) Section 4935.

30 (9) Section 4980.

31 (10) Section 4996.

32 (11) Section 5536.

33 (12) Section 6704.

34 (13) Section 6980.10.

35 (14) Section 7317.

36 (15) Section 7502 or 7592.

37 (16) Section 7520.

38 (17) Section 7617 or 7641.

39 (18) Subdivision (a) of Section 7872.

40 (19) Section 8016.

- 1 (20) Section 8505.
- 2 (21) Section 8725.
- 3 (22) Section 9681.
- 4 (23) Section 9840.
- 5 (24) Subdivision (c) of Section 9891.24.
- 6 (25) Section 19049.

7 (d) Institutions that are required to register with the Bureau for
8 Private Postsecondary—and Vocational Education pursuant to
9 ~~Section 94931~~ Chapter 8 (commencing with Section 94800) of
10 Part 59 of Division 10 of Title 3 of the Education Code.

11 (e) Notwithstanding any other provision of law, a violation of
12 any of the sections listed in subdivision (c) or (d), which is an
13 infraction, is punishable by a fine of not less than two hundred
14 fifty dollars (\$250) and not more than one thousand dollars
15 (\$1,000). No portion of the minimum fine may be suspended by
16 the court unless as a condition of that suspension the defendant is
17 required to submit proof of a current valid license, registration, or
18 certificate for the profession or vocation which was the basis for
19 his or her conviction.

20 *SEC. 4. Section 149 of the Business and Professions Code is*
21 *amended to read:*

22 149. (a) If, upon investigation, an agency designated in
23 subdivision (e) has probable cause to believe that a person is
24 advertising in a telephone directory with respect to the offering or
25 performance of services, without being properly licensed by or
26 registered with the agency to offer or perform those services, the
27 agency may issue a citation under Section 148 containing an order
28 of correction that requires the violator to do both of the following:

- 29 (1) Cease the unlawful advertising.
- 30 (2) Notify the telephone company furnishing services to the
31 violator to disconnect the telephone service furnished to any
32 telephone number contained in the unlawful advertising.

33 (b) This action is stayed if the person to whom a citation is
34 issued under subdivision (a) notifies the agency in writing that he
35 or she intends to contest the citation. The agency shall afford an
36 opportunity for a hearing, as specified in Section 125.9.

37 (c) If the person to whom a citation and order of correction is
38 issued under subdivision (a) fails to comply with the order of
39 correction after that order is final, the agency shall inform the
40 Public Utilities Commission of the violation and the Public Utilities

Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Funeral Directors and Embalmers Program.
- (3) The Veterinary Medical Board.
- (4) The Hearing Aid Dispensers Advisory Commission.
- (5) The Landscape Architects Technical Committee.
- (6) The California Board of Podiatric Medicine.
- (7) The Respiratory Care Board of California.
- (8) The Bureau of Home Furnishings and Thermal Insulation.
- (9) The Bureau of Security and Investigative Services.
- (10) The Bureau of Electronic and Appliance Repair.
- (11) The Bureau of Automotive Repair.
- (12) The Tax Preparers Program.
- (13) The California Architects Board.
- (14) The Speech-Language Pathology and Audiology Board.
- (15) The Board for Professional Engineers and Land Surveyors.
- (16) The Board of Behavioral Sciences.
- (17) The State Board for Geologists and Geophysicists.
- (18) The Structural Pest Control Board.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The California Board of Accountancy.
- (22) The Bureau of Naturopathic Medicine.
- (23) *The Bureau for Private Postsecondary Education.*

SEC. 5. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This chapter shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.

(b) The Bureau for Postsecondary and Vocational Private Postsecondary Education. For purposes of this chapter, “board” includes the bureau.

(c) The Cemetery and Funeral Bureau.

SEC. 6. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this chapter expressly otherwise provided the following definitions apply:

(a) “Licensed psychologist” means an individual to whom a license has been issued pursuant to the provisions of this chapter, which license is in force and has not been suspended or revoked.

(b) “Board” means the Board of Psychology.

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words “psychology,” “psychological,” “psychologist,” “psychology consultation,” “psychology consultant,” “psychometry,” “psychometrics” or “psychometrist,” “psychotherapy,” “psychotherapist,” “psychoanalysis,” or “psychoanalyst,” or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

(d) “Accredited,” as used with reference to academic institutions, means the University of California, the California State University, or an institution that is accredited by a national or an applicable regional accrediting agency recognized by the United States Department of Education.

(e) “Approved,” as used with reference to academic institutions, means an institution having “approval to ~~operate~~”, *operate*,” as defined in Section ~~94718~~ 94817 of the Education Code.

SEC. 7. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in educational psychology, or (3) in education with the field of specialization in counseling psychology or educational psychology. Except as provided in subdivision (g), this degree or training shall be obtained from an accredited university, college, or professional

1 school. The board shall make the final determination as to whether
2 a degree meets the requirements of this section.

3 No educational institution shall be denied recognition as an
4 accredited academic institution solely because its program is not
5 accredited by any professional organization of psychologists, and
6 nothing in this chapter or in the administration of this chapter shall
7 require the registration with the board by educational institutions
8 of their departments of psychology or their doctoral programs in
9 psychology.

10 An applicant for licensure trained in an educational institution
11 outside the United States or Canada shall demonstrate to the
12 satisfaction of the board that he or she possesses a doctorate degree
13 in psychology that is equivalent to a degree earned from a
14 regionally accredited university in the United States or Canada.
15 These applicants shall provide the board with a comprehensive
16 evaluation of the degree performed by a foreign credential
17 evaluation service that is a member of the National Association
18 of Credential Evaluation Services (NACES), and any other
19 documentation the board deems necessary.

20 (c) Have engaged for at least two years in supervised
21 professional experience under the direction of a licensed
22 psychologist, the specific requirements of which shall be defined
23 by the board in its regulations, or under suitable alternative
24 supervision as determined by the board in regulations duly adopted
25 under this chapter, at least one year of which shall be after being
26 awarded the doctorate in psychology. If the supervising licensed
27 psychologist fails to provide verification to the board of the
28 experience required by this subdivision within 30 days after being
29 so requested by the applicant, the applicant may provide written
30 verification directly to the board.

31 If the applicant sends verification directly to the board, the
32 applicant shall file with the board a declaration of proof of service,
33 under penalty of perjury, of the request for verification. A copy of
34 the completed verification forms shall be provided to the
35 supervising psychologist and the applicant shall prove to the board
36 that a copy has been sent to the supervising psychologist by filing
37 a declaration of proof of service under penalty of perjury, and shall
38 file this declaration with the board when the verification forms are
39 submitted.

1 Upon receipt by the board of the applicant's verification and
2 declarations, a rebuttable presumption affecting the burden of
3 producing evidence is created that the supervised, professional
4 experience requirements of this subdivision have been satisfied.
5 The supervising psychologist shall have 20 days from the day the
6 board receives the verification and declaration to file a rebuttal
7 with the board.

8 The authority provided by this subdivision for an applicant to
9 file written verification directly shall apply only to an applicant
10 who has acquired the experience required by this subdivision in
11 the United States.

12 The board shall establish qualifications by regulation for
13 supervising psychologists and shall review and approve applicants
14 for this position on a case-by-case basis.

15 (d) Take and pass the examination required by Section 2941
16 unless otherwise exempted by the board under this chapter.

17 (e) Show by evidence satisfactory to the board that he or she
18 has completed training in the detection and treatment of alcohol
19 and other chemical substance dependency. This requirement applies
20 only to applicants who matriculate on or after September 1, 1985.

21 (f) (1) Show by evidence satisfactory to the board that he or
22 she has completed coursework in spousal or partner abuse
23 assessment, detection, and intervention. This requirement applies
24 to applicants who began graduate training during the period
25 commencing on January 1, 1995, and ending on December 31,
26 2003.

27 (2) An applicant who began graduate training on or after January
28 1, 2004, shall show by evidence satisfactory to the board that he
29 or she has completed a minimum of 15 contact hours of coursework
30 in spousal or partner abuse assessment, detection, and intervention
31 strategies, including knowledge of community resources, cultural
32 factors, and same gender abuse dynamics. An applicant may request
33 an exemption from this requirement if he or she intends to practice
34 in an area that does not include the direct provision of mental health
35 services.

36 (3) Coursework required under this subdivision may be
37 satisfactory if taken either in fulfillment of other educational
38 requirements for licensure or in a separate course. This requirement
39 for coursework shall be satisfied by, and the board shall accept in
40 satisfaction of the requirement, a certification from the chief

1 academic officer of the educational institution from which the
2 applicant graduated that the required coursework is included within
3 the institution's required curriculum for graduation.

4 (g) An applicant holding a doctoral degree in psychology from
5 an approved institution is deemed to meet the requirements of this
6 section if all of the following are true:

7 (1) The approved institution offered a doctoral degree in
8 psychology designed to prepare students for a license to practice
9 psychology and was approved by the Bureau for Private
10 Postsecondary and Vocational Education on or before July 1, 1999.

11 (2) The approved institution has not, since July 1, 1999, had a
12 ~~new change of~~ location, as described in Section ~~94721~~ 94822 of
13 the Education Code.

14 (3) The approved institution is not a franchise institution, as
15 defined in Section ~~94729.3~~ 94841.5 of the Education Code.

16 *SEC. 8. Section 4038 of the Business and Professions Code is*
17 *amended to read:*

18 4038. (a) "Pharmacy technician" means an individual who
19 assists a pharmacist in a pharmacy in the performance of his or
20 her pharmacy related duties, as specified in Section 4115.

21 (b) A "pharmacy technician trainee" is a person who is enrolled
22 in a pharmacy technician training program operated by a California
23 public postsecondary education institution or by a private
24 postsecondary vocational institution approved by the Bureau for
25 Private Postsecondary and Vocational Education.

26 *SEC. 9. Section 4841.5 of the Business and Professions Code*
27 *is amended to read:*

28 4841.5. To be eligible to take the written and practical
29 examination for registration as a registered veterinary technician,
30 the applicant shall:

31 (a) Be at least 18 years of age.

32 (b) Furnish satisfactory evidence of graduation from, at
33 minimum, a two-year curriculum in veterinary technology, in a
34 college or other postsecondary institution approved by the board,
35 or the equivalent thereof as determined by the board. In the case
36 of a private postsecondary institution, the institution shall also be
37 approved by the Bureau for Private Postsecondary and Vocational
38 Education.

39 *SEC. 10. Section 4939 of the Business and Professions Code*
40 *is amended to read:*

1 4939. (a) ~~On or before January 1, 2004, the~~ The board shall
2 establish standards for the approval of schools and colleges offering
3 education and training in the practice of an acupuncturist, including
4 standards for the faculty in those schools and colleges and tutorial
5 programs, completion of which will satisfy the requirements of
6 Section 4938.

7 (b) Standards for the approval of training programs shall include
8 a minimum of 3,000 hours of study in curriculum pertaining to the
9 practice of an acupuncturist. This subdivision shall apply to all
10 students entering programs on or after January 1, 2005.

11 (c) Within three years of initial approval by the board, each
12 program so approved by the board shall receive full institutional
13 approval under Article 3.5 (commencing with Section 94760) of
14 Chapter 7 of Part 59 of the Education Code *as it existed on June*
15 *20, 2007, or Chapter 8 (commencing with Section 94800) of Part*
16 *59 of Division 10 of Title 3 of the Education Code*, in the field of
17 traditional Asian medicine, or in the case of institutions located
18 outside of this state, approval by the appropriate governmental
19 educational authority ~~using standards equivalent to those of Article~~
20 ~~3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of~~
21 ~~the Education Code~~, or the board's approval of the program shall
22 automatically lapse.

23 SEC. 11. Section 4980.36 is added to the Business and
24 Professions Code, to read:

25 4980.36. (a) This section applies to both of the following:

26 (1) Applicants for licensure or registration who begin graduate
27 study before August 1, 2012, but do not complete that study on or
28 before December 31, 2018.

29 (2) Applicants for licensure or registration who begin graduate
30 study on or after August 1, 2012.

31 (b) To qualify for a license or registration, applicants shall
32 possess a doctor's or master's degree meeting the requirements
33 of this section in marriage, family, and child counseling, marital
34 and family therapy, psychology, clinical psychology, counseling
35 psychology, or counseling with an emphasis in either marriage,
36 family, and child counseling or marriage and family therapy,
37 obtained from a school, college, or university approved by the
38 Bureau for Private Postsecondary Education or accredited by
39 either the Commission on the Accreditation of Marriage and
40 Family Therapy Education or a regional accrediting agency

1 *recognized by the United States Department of Education. The*
2 *board has the authority to make the final determination as to*
3 *whether a degree meets all requirements, including, but not limited*
4 *to, course requirements, regardless of accreditation or approval.*

5 *(c) A doctor's or master's degree program that qualifies for*
6 *licensure or registration shall do all of the following:*

7 *(1) Integrate all of the following throughout its curriculum:*

8 *(A) Marriage and family therapy principles.*

9 *(B) The principles of mental health recovery-oriented care and*
10 *methods of service delivery in recovery-oriented practice*
11 *environments.*

12 *(C) An understanding of various cultures and the social and*
13 *psychological implications of socioeconomic position.*

14 *(2) Allow for innovation and individuality in the education of*
15 *marriage and family therapists.*

16 *(3) Encourage students to develop the personal qualities that*
17 *are intimately related to effective practice, including, but not*
18 *limited to, integrity, sensitivity, flexibility, insight, compassion,*
19 *and personal presence.*

20 *(4) Permit an emphasis or specialization that may address any*
21 *one or more of the unique and complex array of human problems,*
22 *symptoms, and needs of Californians served by marriage and*
23 *family therapists.*

24 *(5) Provide students with the opportunity to meet with various*
25 *consumers and family members of consumers of mental health*
26 *services to enhance understanding of their experience of mental*
27 *illness, treatment, and recovery.*

28 *(d) The degree described in subdivision (b) shall contain no*
29 *less than 60 semester or 90 quarter units of instruction that meets*
30 *both of the following requirements:*

31 *(1) Includes both of the following:*

32 *(A) No less than 12 semester or 18 quarter units of coursework*
33 *in theories, principles, and methods of a variety of*
34 *psychotherapeutic orientations directly related to marriage and*
35 *family therapy and marital and family systems approaches to*
36 *treatment and how these theories can be applied therapeutically*
37 *with individuals, couples, families, adults, children, adolescents,*
38 *and groups to improve, restore, or maintain healthy relationships.*

39 *(B) A practicum course that involves direct client contact, as*
40 *follows:*

- 1 (i) *The practicum shall include a minimum of six semester or*
- 2 *nine quarter units of practicum in a supervised clinical placement*
- 3 *that provides supervised fieldwork experience.*
- 4 (ii) *The practicum shall include a minimum of 225 hours of*
- 5 *face-to-face experience counseling individuals, couples, families,*
- 6 *or groups. Up to 75 of those hours may be gained performing*
- 7 *client centered advocacy, as defined in Section 4980.03.*
- 8 (iii) *A student must be enrolled in a practicum course while*
- 9 *counseling clients.*
- 10 (iv) *The practicum shall provide training in all of the following*
- 11 *areas:*
 - 12 (I) *Applied use of theory and psychotherapeutic techniques.*
 - 13 (II) *Assessment, diagnosis, and prognosis.*
 - 14 (III) *Treatment of individuals and premarital, couple, family,*
 - 15 *and child relationships, including, but not limited to, dysfunctions,*
 - 16 *healthy functioning, health promotion, illness prevention, and*
 - 17 *working with families.*
 - 18 (IV) *Professional writing, including documentation of services,*
 - 19 *treatment plans, and progress notes.*
 - 20 (V) *How to find and use resources.*
- 21 (v) *Educational institutions are encouraged to design the*
- 22 *practicum required by this subparagraph to include marriage and*
- 23 *family therapy experience in low-income and multicultural mental*
- 24 *health settings.*
- 25 (2) *Includes instruction in all of the following:*
 - 26 (A) *Diagnosis, assessment, prognosis, and treatment of mental*
 - 27 *disorders, including, but not limited to, severe mental disorders,*
 - 28 *evidence-based practices, psychological testing, and*
 - 29 *psychopharmacology.*
 - 30 (B) *Developmental issues from infancy to old age, including,*
 - 31 *but not limited to, instruction in all of the following areas:*
 - 32 (i) *The effects of developmental issues on individuals, couples,*
 - 33 *and family relationships.*
 - 34 (ii) *The psychological, psychotherapeutic, and health*
 - 35 *implications of developmental issues and their effects.*
 - 36 (iii) *Aging and its biological, social, cognitive, and*
 - 37 *psychological aspects.*
 - 38 (iv) *A variety of cultural understandings of human development.*

1 (v) *The understanding of human behavior within the social*
2 *context of socioeconomic status and other contextual issues*
3 *affecting social position.*

4 (vi) *The understanding of human behavior within the social*
5 *context of a representative variety of the cultures found within*
6 *California.*

7 (C) *The broad range of matters and life events that may arise*
8 *within marriage and family relationships and within a variety of*
9 *California cultures, including, but not limited to, instruction in all*
10 *of the following:*

11 (i) *Child abuse assessment and reporting.*

12 (ii) *Spousal or partner abuse assessment, detection, intervention*
13 *strategies, and same-gender abuse dynamics.*

14 (iii) *Cultural factors relevant to abuse of partners and family*
15 *members.*

16 (iv) *Childbirth, child rearing, parenting, and stepparenting.*

17 (v) *Marriage, divorce, and blended families.*

18 (vi) *Long-term care.*

19 (vii) *End of life and grief.*

20 (viii) *The psychological, psychotherapeutic, community, and*
21 *health implications of the matters and life events described in*
22 *clauses (i) to (vii), inclusive.*

23 (D) *Cultural competency and sensitivity, including, but not*
24 *limited to, a familiarity with the racial, cultural, linguistic, and*
25 *ethnic backgrounds of persons living in California.*

26 (E) *An understanding of the effects of socioeconomic status on*
27 *treatment and available resources.*

28 (F) *Multicultural development and cross-cultural interaction,*
29 *including, but not limited to, experiences of race, ethnicity, class,*
30 *spirituality, sexual orientation, gender, and disability, and their*
31 *incorporation into the psychotherapeutic process.*

32 (G) *Human sexuality, including, but not limited to, the study of*
33 *physiological, psychological, and social cultural variables*
34 *associated with sexual behavior, gender identity, and the*
35 *assessment and treatment of psychosexual dysfunction.*

36 (H) *Substance abuse, cooccurring disorders, and addiction,*
37 *including, but not limited to, instruction in all of the following:*

38 (i) *The definition of substance use disorders, cooccurring*
39 *disorders, and addiction. For purposes of this subparagraph,*

- 1 *“cooccurring disorders” means a mental illness and substance*
2 *abuse diagnosis occurring simultaneously in an individual.*
3 (ii) *Medical aspects of substance use disorders and cooccurring*
4 *disorders.*
5 (iii) *The effects of psychoactive drug use.*
6 (iv) *Current theories of the etiology of substance abuse and*
7 *addiction.*
8 (v) *The role of persons and systems that support or compound*
9 *substance abuse and addiction.*
10 (vi) *Major approaches to identification, evaluation, and*
11 *treatment of substance use disorders, cooccurring disorders, and*
12 *addiction, including, but not limited to, best practices.*
13 (vii) *Legal aspects of substance abuse.*
14 (viii) *Populations at risk with regard to substance use disorders*
15 *and cooccurring disorders.*
16 (ix) *Community resources offering screening, assessment,*
17 *treatment, and followup for the affected person and family.*
18 (x) *Recognition of substance use disorders, cooccurring*
19 *disorders, and addiction, and appropriate referral.*
20 (xi) *The prevention of substance use disorders and addiction.*
21 (I) *California law and professional ethics for marriage and*
22 *family therapists, including, but not limited to, instruction in all*
23 *of the following areas of study:*
24 (i) *Contemporary professional ethics and statutory, regulatory,*
25 *and decisional laws that delineate the scope of practice of marriage*
26 *and family therapy.*
27 (ii) *The therapeutic, clinical, and practical considerations*
28 *involved in the legal and ethical practice of marriage and family*
29 *therapy, including, but not limited to, family law.*
30 (iii) *The current legal patterns and trends in the mental health*
31 *professions.*
32 (iv) *The psychotherapist-patient privilege, confidentiality, the*
33 *patient dangerous to self or others, and the treatment of minors*
34 *with and without parental consent.*
35 (v) *A recognition and exploration of the relationship between*
36 *a practitioner’s sense of self and human values and his or her*
37 *professional behavior and ethics.*
38 (vi) *Differences in legal and ethical standards for different types*
39 *of work settings.*
40 (vii) *Licensing law and licensing process.*

1 (e) *The degree described in subdivision (b) shall, in addition to*
2 *meeting the requirements of subdivision (d), include instruction*
3 *in case management, systems of care for the severely mentally ill,*
4 *public and private services and supports available for the severely*
5 *mentally ill, community resources for victims of abuse, disaster*
6 *and trauma response, advocacy for the severely mentally ill, and*
7 *collaborative treatment. This instruction may be provided either*
8 *in credit level coursework or through extension programs offered*
9 *by the degree-granting institution.*

10 (f) *Each applicant for a license under this section shall submit*
11 *to the board a certification from his or her educational institution*
12 *stating that the institution's required curriculum for graduation*
13 *and any associated coursework completed by the applicant satisfies*
14 *the requirements of this section.*

15 (g) *Each educational institution preparing applicants to qualify*
16 *for licensure shall notify each of its students by means of its public*
17 *documents or otherwise in writing that its degree program is*
18 *designed to meet the requirements of this section, and shall certify*
19 *to the board that it has so notified its students.*

20 (h) *The changes made to law by this section are intended to*
21 *improve the educational qualifications for licensure in order to*
22 *better prepare future licentiates for practice, and are not intended*
23 *to expand or restrict the scope of practice for marriage and family*
24 *therapists.*

25 SEC. 12. *Section 4980.37 of the Business and Professions Code*
26 *is amended to read:*

27 4980.37. (a) *This section applies to applicants for licensure*
28 *or registration who begin graduate study before August 1, 2012,*
29 *and complete that study on or before December 31, 2018.*

30 (b) *To qualify for a license or registration, applicants shall*
31 *possess a doctor's or master's degree in marriage, family, and*
32 *child counseling, marital and family therapy, psychology, clinical*
33 *psychology, counseling psychology, or counseling with an emphasis*
34 *in either marriage, family, and child counseling or marriage and*
35 *family therapy, obtained from a school, college, or university*
36 *accredited by a regional accrediting agency recognized by the*
37 *United States Department of Education or approved by the Bureau*
38 *for Private Postsecondary Education. The board has the authority*
39 *to make the final determination as to whether a degree meets all*
40 *requirements, including, but not limited to, course requirements,*

1 regardless of accreditation or approval. In order to qualify for
2 licensure pursuant to this section, a doctor's or master's degree
3 program shall be a single, integrated program primarily designed
4 to train marriage and family therapists and shall contain no less
5 than 48 semester or 72 quarter units of instruction. This instruction
6 shall include no less than 12 semester units or 18 quarter units of
7 coursework in the areas of marriage, family, and child counseling,
8 and marital and family systems approaches to treatment. The
9 coursework shall include all of the following areas:

10 (1) The salient theories of a variety of psychotherapeutic
11 orientations directly related to marriage and family therapy, and
12 marital and family systems approaches to treatment.

13 (2) Theories of marriage and family therapy and the manner in
14 which those theories may be utilized in order to intervene
15 therapeutically with couples, families, adults, children, and groups.

16 (3) Developmental issues and life events from infancy to old
17 age and their effect on individuals, couples, and family
18 relationships. This may include coursework that focuses on specific
19 family life events and the psychological, psychotherapeutic, and
20 health implications that arise within couples and families,
21 including, but not limited to, childbirth, child rearing, childhood,
22 adolescence, adulthood, marriage, divorce, blended families,
23 stepparenting, and geropsychology.

24 (4) A variety of approaches to the treatment of children. The
25 board shall, by regulation, set forth the subjects of instruction
26 required in this subdivision.

27 (c) (1) In addition to the 12 semester or 18 quarter units of
28 coursework specified in subdivision (b), the doctor's or master's
29 degree program shall contain not less than six semester or nine
30 quarter units of supervised practicum in applied psychotherapeutic
31 technique, assessments, diagnosis, prognosis, and treatment of
32 premarital, couple, family, and child relationships, including
33 dysfunctions, healthy functioning, health promotion, and illness
34 prevention, in a supervised clinical placement that provides
35 supervised fieldwork experience within the scope of practice of a
36 marriage and family therapist.

37 (2) For applicants who enrolled in a degree program on or after
38 January 1, 1995, the practicum shall include a minimum of 150
39 hours of face-to-face experience counseling individuals, couples,
40 families, or groups.

1 (3) *The practicum hours shall be considered as part of the 48*
2 *semester or 72 quarter unit requirement.*

3 (d) *As an alternative to meeting the qualifications specified in*
4 *subdivision (b), the board shall accept as equivalent degrees those*
5 *master's or doctor's degrees granted by educational institutions*
6 *whose degree program is approved by the Commission on*
7 *Accreditation for Marriage and Family Therapy Education.*

8 ~~(a)~~

9 (e) In order to provide an integrated course of study and
10 appropriate professional training, while allowing for innovation
11 and individuality in the education of marriage and family therapists,
12 a degree program ~~which~~ *that* meets the educational qualifications
13 for licensure *or registration under this section* shall ~~include~~ *do* all
14 of the following:

15 (1) Provide an integrated course of study that trains students
16 generally in the diagnosis, assessment, prognosis, and treatment
17 of mental disorders.

18 (2) Prepare students to be familiar with the broad range of
19 matters that may arise within marriage and family relationships.

20 (3) Train students specifically in the application of marriage
21 and family relationship counseling principles and methods.

22 (4) Encourage students to develop those personal qualities that
23 are intimately related to the counseling situation such as integrity,
24 sensitivity, flexibility, insight, compassion, and personal presence.

25 (5) Teach students a variety of effective psychotherapeutic
26 techniques and modalities that may be utilized to improve, restore,
27 or maintain healthy individual, couple, and family relationships.

28 (6) Permit an emphasis or specialization that may address any
29 one or more of the unique and complex array of human problems,
30 symptoms, and needs of Californians served by marriage and
31 family therapists.

32 (7) Prepare students to be familiar with ~~crosscultural~~
33 *cross-cultural* mores and values, including a familiarity with the
34 wide range of racial and ethnic backgrounds common among
35 California's population, including, but not limited to, Blacks,
36 Hispanics, Asians, and Native Americans.

37 ~~(b)~~

38 (f) Educational institutions are encouraged to design the
39 practicum required by ~~subdivision (b) of Section 4980.40~~ *this*

1 *section* to include marriage and family therapy experience in
2 low-income and multicultural mental health settings.

3 *(g) This section shall remain in effect only until January 1, 2019,*
4 *and as of that date is repealed, unless a later enacted statute that*
5 *is enacted before January 1, 2019, deletes or extends that date.*

6 SEC. 13. Section 4980.40 of the Business and Professions Code
7 is amended to read:

8 4980.40. To qualify for a license, an applicant shall have all
9 the following qualifications:

10 (a) Applicants shall possess a doctor's or master's degree in
11 marriage, family, and child counseling, marital and family therapy,
12 psychology, clinical psychology, counseling psychology, or
13 counseling with an emphasis in either marriage, family, and child
14 counseling or marriage and family therapy, obtained from a school,
15 college, or university accredited by the Western Association of
16 Schools and Colleges, or approved by the Bureau for Private
17 Postsecondary and Vocational Education. The board has the
18 authority to make the final determination as to whether a degree
19 meets all requirements, including, but not limited to, course
20 requirements, regardless of accreditation or approval. In order to
21 qualify for licensure pursuant to this subdivision, a doctor's or
22 master's degree program shall be a single, integrated program
23 primarily designed to train marriage and family therapists and shall
24 contain no less than 48 semester or 72 quarter units of instruction.
25 The instruction shall include no less than 12 semester units or 18
26 quarter units of coursework in the areas of marriage, family, and
27 child counseling, and marital and family systems approaches to
28 treatment.

29 The coursework shall include all of the following areas:

30 (1) The salient theories of a variety of psychotherapeutic
31 orientations directly related to marriage and family therapy, and
32 marital and family systems approaches to treatment.

33 (2) Theories of marriage and family therapy and how they can
34 be utilized in order to intervene therapeutically with couples,
35 families, adults, children, and groups.

36 (3) Developmental issues and life events from infancy to old
37 age and their effect upon individuals, couples, and family
38 relationships. This may include coursework that focuses on specific
39 family life events and the psychological, psychotherapeutic, and
40 health implications that arise within couples and families,

1 including, but not limited to, childbirth, child rearing, childhood,
2 adolescence, adulthood, marriage, divorce, blended families,
3 stepparenting, and geropsychology.

4 (4) A variety of approaches to the treatment of children.

5 The board shall, by regulation, set forth the subjects of instruction
6 required in this subdivision.

7 (b) (1) In addition to the 12 semester or 18 quarter units of
8 coursework specified above, the doctor's or master's degree
9 program shall contain not less than six semester or nine quarter
10 units of supervised practicum in applied psychotherapeutic
11 techniques, assessment, diagnosis, prognosis, and treatment of
12 premarital, couple, family, and child relationships, including
13 dysfunctions, healthy functioning, health promotion, and illness
14 prevention, in a supervised clinical placement that provides
15 supervised fieldwork experience within the scope of practice of a
16 marriage and family therapist.

17 (2) For applicants who enrolled in a degree program on or after
18 January 1, 1995, the practicum shall include a minimum of 150
19 hours of face-to-face experience counseling individuals, couples,
20 families, or groups.

21 (3) The practicum hours shall be considered as part of the 48
22 semester or 72 quarter unit requirement.

23 (c) As an alternative to meeting the qualifications specified in
24 subdivision (a), the board shall accept as equivalent degrees, those
25 master's or doctor's degrees granted by educational institutions
26 whose degree program is approved by the Commission on
27 Accreditation for Marriage and Family Therapy Education.

28 (d) All applicants shall, in addition, complete the coursework
29 or training specified in Section 4980.41.

30 (e) All applicants shall be at least 18 years of age.

31 (f) All applicants shall have at least two years of experience
32 that meet the requirements of Section 4980.43.

33 (g) The applicant shall pass a board administered written or oral
34 examination or both types of examinations, except that an applicant
35 who passed a written examination and who has not taken and
36 passed an oral examination shall instead be required to take and
37 pass a clinical vignette written examination.

38 (h) The applicant shall not have committed acts or crimes
39 constituting grounds for denial of licensure under Section 480.
40 The board shall not issue a registration or license to any person

1 who has been convicted of a crime in this or another state or in a
2 territory of the United States that involves sexual abuse of children
3 or who is required to register pursuant to Section 290 of the Penal
4 Code or the equivalent in another state or territory.

5 (i) An applicant for licensure trained in an educational institution
6 outside the United States shall demonstrate to the satisfaction of
7 the board that he or she possesses a qualifying degree that is
8 equivalent to a degree earned from a school, college, or university
9 accredited by the Western Association of Schools and Colleges,
10 or approved by the Bureau of Private Postsecondary and Vocational
11 Education. These applicants shall provide the board with a
12 comprehensive evaluation of the degree performed by a foreign
13 credential evaluation service that is a member of the National
14 Association of Credential Evaluation Services (NACES), and shall
15 provide any other documentation the board deems necessary.

16 *SEC. 14. Section 4980.78 is added to the Business and*
17 *Professions Code, to read:*

18 *4980.78. (a) This section applies to persons who apply for*
19 *licensure or registration on or after January 1, 2014.*

20 *(b) Education is substantially equivalent to that required under*
21 *this chapter if all of the following requirements are met:*

22 *(1) The degree is obtained from a school, college, or university*
23 *accredited by a regional accrediting agency recognized by the*
24 *United States Department of Education and consists of, at a*
25 *minimum, 48 semester or 72 quarter units, including, but not*
26 *limited to, both of the following:*

27 *(A) Six semester or nine quarter units of practicum, including,*
28 *but not limited to, a minimum of 150 hours of face-to-face*
29 *counseling.*

30 *(B) Twelve semester or 18 quarter units in the areas of marriage,*
31 *family, and child counseling and marital and family systems*
32 *approaches to treatment, as specified in subparagraph (A) of*
33 *paragraph (1) of subdivision (d) of Section 4980.36.*

34 *(2) The applicant completes any units and course content*
35 *requirements under subdivision (d) of Section 4980.36 not already*
36 *completed in his or her education.*

37 *(3) The applicant completes credit level coursework from a*
38 *degree-granting institution that provides all of the following:*

1 (A) Instruction regarding the principles of mental health
2 recovery-oriented care and methods of service delivery in recovery
3 model practice environments.

4 (B) An understanding of various California cultures and the
5 social and psychological implications of socioeconomic position.

6 (C) Structured meeting with various consumers and family
7 members of consumers of mental health services to enhance
8 understanding of their experience of mental illness, treatment, and
9 recovery.

10 (D) Instruction in behavioral addiction and cooccurring
11 substance abuse and mental health disorders, as specified in
12 subparagraph (H) of paragraph (2) of subdivision (d) of Section
13 4980.36.

14 (4) The applicant completes a course in California law and
15 professional ethics. The content of the course shall include, but
16 not be limited to, advertising, scope of practice, scope of
17 competence, treatment of minors, confidentiality, dangerous
18 patients, psychotherapist-patient privilege, recordkeeping, patient
19 access to records, the Health Insurance Portability and
20 Accountability Act, dual relationships, child abuse, elder and
21 dependent adult abuse, online therapy, insurance reimbursement,
22 civil liability, disciplinary actions and unprofessional conduct,
23 ethics complaints and ethical standards, termination of therapy,
24 standards of care, relevant family law, therapist disclosures to
25 patients, differences in legal and ethical standards in different
26 types of work settings, and licensing law and licensing process.

27 SEC. 15. Section 7313 of the Business and Professions Code
28 is amended to read:

29 7313. (a) (1) To ensure compliance with the laws and
30 regulations of this chapter, the board's executive officer and
31 authorized representatives shall, except as provided by Section
32 159.5, have access to, and shall inspect, any establishment or
33 mobile unit during business hours or at any time in which
34 barbering, cosmetology, or electrolysis are being performed. It is
35 the intent of the Legislature that inspections be conducted on
36 Saturdays and Sundays as well as weekdays, if collective
37 bargaining agreements and civil service provisions permit.

38 (2) The board shall maintain a program of random and targeted
39 inspections of establishments to ensure compliance with applicable
40 laws relating to the public health and safety and the conduct and

1 operation of establishments. The board or its authorized
2 representatives shall inspect establishments to reasonably determine
3 compliance levels and to identify market conditions that require
4 targeted enforcement. The board shall not reduce the number of
5 employees assigned to perform random inspections, targeted
6 inspections, and investigations relating to field operations below
7 the level funded by the annual Budget Act and described in
8 supporting budget documents, and shall not redirect funds or
9 personnel-years allocated to those inspection and investigation
10 purposes to other purposes.

11 (b) To ensure compliance with health and safety requirements
12 adopted by the board, the executive officer and authorized
13 representatives shall, except as provided in Section 159.5, have
14 access to, and shall inspect the premises of, all schools in which
15 the practice of barbering, cosmetology, or electrolysis is performed
16 on the public. Notices of violation shall be issued to schools for
17 violations of regulations governing conditions related to the health
18 and safety of patrons. Each notice shall specify the section violated
19 and a timespan within which the violation must be corrected. A
20 copy of the notice of violation shall be provided to the Bureau for
21 Private Postsecondary and Vocational Education.

22 (c) With prior written authorization from the board or its
23 executive officer, any member of the board may enter and visit,
24 in his or her capacity as a board member, any establishment, during
25 business hours or at any time when barbering, cosmetology, or
26 electrolysis is being performed. The visitation by a board member
27 shall be for the purpose of conducting official board business, but
28 shall not be used as a basis for any licensing disciplinary action
29 by the board.

30 *SEC. 16. Section 7362 of the Business and Professions Code*
31 *is amended to read:*

32 7362. (a) A school approved by the board is one which is
33 ~~licensed~~ *approved* by the Bureau for Private Postsecondary and
34 ~~Vocational~~ Education, or a public school in this state, and provides
35 a course of instruction approved by the board.

36 (b) The board shall determine by regulation the required subjects
37 of instruction to be completed in all approved courses, including
38 the minimum hours of technical instruction and minimum number
39 of practical operations for each subject, and shall determine how

1 much training is required before a student may begin performing
2 services on paying patrons.

3 *SEC. 17. Section 7395.1 of the Business and Professions Code*
4 *is amended to read:*

5 7395.1. (a) A student who is enrolled in a school of
6 cosmetology approved by the Bureau for Private Postsecondary
7 ~~and Vocational~~ Education in a course approved by the board may,
8 upon completion of a minimum of 60 percent of the clock hours
9 required for graduation in the course, work as an unpaid extern in
10 a cosmetology establishment participating in the educational
11 program of the school of cosmetology.

12 (b) A person working as an extern shall receive clock hour credit
13 toward graduation, but that credit shall not exceed eight hours per
14 week and shall not exceed 10 percent of the total clock hours
15 required for completion of the course.

16 (c) The externship program shall be conducted in cosmetology
17 establishments meeting all of the following criteria:

18 (1) The establishment is licensed by the board.

19 (2) The establishment has a minimum of four licensees working
20 at the establishment, including employees and owners or managers.

21 (3) All licensees at the establishment are in good standing with
22 the board.

23 (4) Licensees working at the establishment work for salaries or
24 commissions rather than on a space rental basis.

25 (5) No more than one extern shall work in an establishment for
26 every four licensees working in the establishment. No regularly
27 employed licensee shall be displaced or have his or her work hours
28 reduced or altered to accommodate the placement of an extern in
29 an establishment. Prior to placement of the extern, the
30 establishment shall agree in writing sent to the school and to all
31 affected licensees that no reduction or alteration of any licensee's
32 current work schedule shall occur. This shall not prevent a licensee
33 from voluntarily reducing or altering his or her work schedule.

34 (6) Externs shall wear conspicuous school identification at all
35 times while working in the establishment, and shall carry a school
36 laminated identification, that includes a picture, in a form approved
37 by the board.

38 (d) (1) A school participating in the externship program shall
39 provide the participating establishment and the extern with a
40 syllabus containing applicable information specified in Section

1 73880 of Title 5 of the California Code of Regulations. The extern,
2 the school, and the establishment shall agree to the terms of and
3 sign the syllabus prior to the extern beginning work at the
4 establishment. No less than 90 percent of the responsibilities and
5 duties of the extern shall consist of the acts included within the
6 practice of cosmetology as defined in Section 7316.

7 (2) The establishment shall consult with the assigning school
8 regarding the extern's progress during the unpaid externship. The
9 owner or manager of the establishment shall monitor and report
10 on the student's progress to the school on a regular basis, with
11 assistance from supervising licensees.

12 (3) A participating school shall assess the extern's learning
13 outcome from the externship program. The school shall maintain
14 accurate records of the extern's educational experience in the
15 externship program and records that indicate how the extern's
16 learning outcome translates into course credit.

17 (e) Participation in an externship program made available by a
18 school shall be voluntary, may be terminated by the student at any
19 time, and shall not be a prerequisite for graduation.

20 (f) The cosmetology establishment that chooses to utilize the
21 extern is liable for the extern's general liability insurance, as well
22 as cosmetology malpractice liability insurance, and shall furnish
23 proof to the participating school that the establishment is covered
24 by both forms of liability insurance and that the extern is covered
25 under that insurance.

26 (g) (1) It is the purpose of the externship program authorized
27 by this section to provide students with skills, knowledge, and
28 attitudes necessary to acquire employment in the field for which
29 they are being trained, and to extend formalized classroom
30 instruction.

31 (2) Instruction shall be based on skills, knowledge, attitudes,
32 and performance levels in the area of cosmetology for which the
33 instruction is conducted.

34 (3) An extern may perform only acts listed within the definition
35 of the practice of cosmetology as provided in Section 7316, if a
36 licensee directly supervises those acts, except that an extern may
37 not use or apply chemical treatments unless the extern has received
38 appropriate training in application of those treatments from an
39 approved cosmetology school. An extern may work on a paying

1 client only in an assisting capacity and only with the direct and
2 immediate supervision of a licensee.

3 (4) The extern shall not perform any work in a manner that
4 would violate law.

5 *SEC. 18. Section 7407 of the Business and Professions Code*
6 *is amended to read:*

7 7407. The board shall establish by regulation a schedule of
8 administrative fines for violations of this chapter. All moneys
9 collected under this section shall be deposited in the board's
10 contingent fund.

11 The schedule shall indicate for each type of violation whether,
12 in the board's discretion, the violation can be corrected. The board
13 shall review and revise the schedule of administrative fines for
14 violations by January 1, 2005. The board shall ensure that it and
15 the Bureau for Private Postsecondary and Vocational Education
16 do not issue citations for the same violation.

17 *SEC. 19. Section 8027 of the Business and Professions Code*
18 *is amended to read:*

19 8027. (a) As used in this section, "school" means a court
20 reporter training program or an institution that provides a course
21 of instruction approved by the board and the Bureau for Private
22 Postsecondary and Vocational Education, is a public school in this
23 state, or is accredited by the Western Association of Schools and
24 Colleges.

25 (b) A court reporting school shall be primarily organized to train
26 students for the practice of shorthand reporting, as defined in
27 Sections 8016 and 8017. Its educational program shall be on the
28 postsecondary or collegiate level. It shall be legally organized and
29 authorized to conduct its program under all applicable laws of the
30 state, and shall conform to and offer all components of the
31 minimum prescribed course of study established by the board. Its
32 records shall be kept and shall be maintained in a manner to render
33 them safe from theft, fire, or other loss. The records shall indicate
34 positive daily and clock-hour attendance of each student for all
35 classes, apprenticeship and graduation reports, high school
36 transcripts or the equivalent or self-certification of high school
37 graduation or the equivalent, transcripts of other education, and
38 student progress to date, including all progress and counseling
39 reports.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the California Department of Education, the Bureau for Private Postsecondary and Vocational Education, the Chancellor's Office of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

1 (g) A school shall notify the board in writing immediately of
2 the discontinuance or pending discontinuance of its court reporting
3 program or any of the program's components. Within two years
4 of the date this notice is sent to the board, the school shall
5 discontinue its court reporting program in its entirety. The board
6 may, for good cause shown, grant not more than two one-year
7 extensions of this period to a school. If a student is to be enrolled
8 after this notice is sent to the board, a school shall disclose to the
9 student the fact of the discontinuance or pending discontinuance
10 of its court reporting program or any of its program components.

11 (h) The board shall maintain a roster of currently recognized
12 and provisionally recognized court reporting schools, including,
13 but not limited to, the name, address, telephone number, and the
14 name of the responsible court reporting program manager of each
15 school.

16 (i) The board shall maintain statistics that display the number
17 and passing percentage of all first-time examinees, including, but
18 not limited to, those qualified by each recognized or provisionally
19 recognized school and those first-time examinees qualified by
20 other methods as defined in Section 8020.

21 (j) Inspections and investigations shall be conducted by the
22 board as necessary to carry out this section, including, but not
23 limited to, unannounced site visits.

24 (k) All recognized and provisionally recognized schools shall
25 print in their school or course catalog the name, address, and
26 telephone number of the board. At a minimum, the information
27 shall be in 8-point bold type and include the following statement:

28 "IN ORDER FOR A PERSON TO QUALIFY FROM A
29 SCHOOL TO TAKE THE STATE LICENSING EXAMINATION,
30 THE PERSON SHALL COMPLETE A PROGRAM AT A
31 RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING
32 THE MINIMUM REQUIREMENTS THAT A COURT
33 REPORTING PROGRAM MUST MEET IN ORDER TO BE
34 RECOGNIZED, CONTACT: THE COURT REPORTERS
35 BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE
36 NUMBER)."

37 (l) Each court reporting school shall file with the board, not
38 later than June 30 of each year, a current school catalog that shows
39 all course offerings and staff, and for private schools, the owner,
40 except that where there have been no changes to the catalog within

1 the previous year, no catalog need be sent. In addition, each school
2 shall also file with the board a statement certifying whether the
3 school is in compliance with all statutes and the rules and
4 regulations of the board, signed by the responsible court reporting
5 program manager.

6 (m) A school offering court reporting may not make any written
7 or verbal claims of employment opportunities or potential earnings
8 unless those claims are based on verified data and reflect current
9 employment conditions.

10 (n) If a school offers a course of instruction that exceeds the
11 board's minimum requirements, the school shall disclose orally
12 and in writing the board's minimum requirements and how the
13 course of instruction differs from those criteria. The school shall
14 make this disclosure before a prospective student executes an
15 agreement obligating that person to pay any money to the school
16 for the course of instruction. The school shall also make this
17 disclosure to all students enrolled on January 1, 2002.

18 (o) Private and public schools shall provide each prospective
19 student with all of the following and have the prospective student
20 sign a document that shall become part of that individual's
21 permanent record, acknowledging receipt of each item:

22 (1) A student consumer information brochure published by the
23 board.

24 (2) A list of the school's graduation requirements, including the
25 number of tests, the pass point of each test, the speed of each test,
26 and the type of test, such as jury charge or literary.

27 (3) A list of requirements to qualify for the state certified
28 shorthand reporter licensing examination, including the number
29 of tests, the pass point of each test, the speed of each test, and the
30 type of test, such as jury charge or literary, if different than those
31 requirements listed in paragraph (2).

32 (4) A copy of the school's board-approved benchmarks for
33 satisfactory progress as identified in subdivision (u).

34 (5) A report showing the number of students from the school
35 who qualified for each of the certified shorthand reporter licensing
36 examinations within the preceding two years, the number of those
37 students that passed each examination, the time, as of the date of
38 qualification, that each student was enrolled in court reporting
39 school, and the placement rate for all students that passed each
40 examination.

1 (6) On and after January 1, 2005, the school shall also provide
2 to prospective students the number of hours each currently enrolled
3 student who has qualified to take the next licensing test, exclusive
4 of transfer students, has attended court reporting classes.

5 (p) All enrolled students shall have the information in
6 subdivisions (n) and (o) on file no later than June 30, 2005.

7 (q) Public schools shall provide the information in subdivisions
8 (n) and (o) to each new student the first day he or she attends theory
9 or machine speed class, if it was not provided previously.

10 (r) Each enrolled student shall be provided written notification
11 of any change in qualification or graduation requirements that is
12 being implemented due to the requirements of any one of the
13 school's oversight agencies. This notice shall be provided to each
14 affected student at least 30 days before the effective date of the
15 change and shall state the new requirement and the name, address,
16 and telephone number of the agency that is requiring it of the
17 school. Each student shall initial and date a document
18 acknowledging receipt of that information and that document, or
19 a copy thereof, shall be made part of the student's permanent file.

20 (s) Schools shall make available a comprehensive final
21 examination in each academic subject to any student desiring to
22 challenge an academic class in order to obtain credit towards
23 certification for the state licensing examination. The points required
24 to pass a challenge examination shall not be higher than the
25 minimum points required of other students completing the
26 academic class.

27 (t) An individual serving as a teacher, instructor, or reader shall
28 meet the qualifications specified by regulation for his or her
29 position.

30 (u) Each school shall provide a substitute teacher or instructor
31 for any class for which the teacher or instructor is absent for two
32 consecutive days or more.

33 (v) The board has the authority to approve or disapprove
34 benchmarks for satisfactory progress which each school shall
35 develop for its court reporting program. Schools shall use only
36 board-approved benchmarks to comply with the provisions of
37 paragraph (4) of subdivision (o) and subdivision (u).

38 (w) Each school shall counsel each student a minimum of one
39 time within each 12-month period to identify the level of attendance
40 and progress, and the prognosis for completing the requirements

1 to become eligible to sit for the state licensing examination. If the
2 student has not progressed in accordance with the board-approved
3 benchmarks for that school, the student shall be counseled a
4 minimum of one additional time within that same 12-month period.

5 (x) The school shall provide to the board, for each student
6 qualifying through the school as eligible to sit for the state licensing
7 examination, the number of hours the student attended court
8 reporting classes, both academic and machine speed classes,
9 including theory.

10 (y) The pass rate of first-time exam takers for each school
11 offering court reporting shall meet or exceed the average pass rate
12 of all first-time test takers for a majority of examinations given
13 for the preceding three years. Failure to do so shall require the
14 board to conduct a review of the program. In addition, the board
15 may place the school on probation and may withdraw recognition
16 if the school continues to place below the above described standard
17 on the two exams that follow the three-year period.

18 (z) A school shall not require more than one 10-minute
19 qualifying examination, as defined in the regulations of the board,
20 for a student to be eligible to sit for the state certification
21 examination.

22 (aa) A school shall provide the board the actual number of hours
23 of attendance for each applicant the school qualifies for the state
24 licensing examination.

25 ~~(bb)~~

26 (ab) The board shall, by December 1, 2001, do the following
27 by regulation as necessary:

28 (1) Establish the format that shall be used by schools to report
29 tracking of all attendance hours and actual timeframes for
30 completed coursework.

31 (2) Require schools to provide a minimum of 10 hours of live
32 dictation class each school week for every full-time student.

33 (3) Require schools to provide students with the opportunity to
34 read back from their stenographic notes a minimum of one time
35 each day to his or her instructor.

36 (4) Require schools to provide students with the opportunity to
37 practice with a school-approved speed-building tape, or other
38 assigned material, a minimum of one hour per day after school
39 hours as a homework assignment and provide the notes from this
40 tape to their instructor the following day for review.

(5) Develop standardization of policies on the use and administration of qualifier examinations by schools.

(6) Define qualifier exam as follows: the qualifier exam shall consist of 4-voice testimony of 10-minute duration at 200 wpm, graded at 97.5 percent accuracy, and in accordance with the guidelines followed by the board. Schools shall be required to date and number each qualifier and announce the date and number to the students at the time of administering the qualifier. All qualifiers shall indicate the actual dictation time of the test and the school shall catalog and maintain the qualifier for a period of not less than three years for the purpose of inspection by the board.

(7) Require schools to develop a program to provide students with the opportunity to interact with professional court reporters to provide skill support, mentoring, or counseling which they can document at least quarterly.

(8) Define qualifications and educational requirements required of instructors and readers that read test material and qualifiers.

~~(ee)~~

(ac) The board shall adopt regulations to implement the requirements of this section not later than September 1, 2002.

~~(dd)~~

(ad) The board may recover costs for any additional expenses incurred under the enactment amending this section in the 2001–02 Regular Session of the Legislature pursuant to its fee authority in Section 8031.

SEC. 20. Chapter 8 (commencing with Section 94800) is added to Part 59 of Division 10 of Title 3 of the Education Code, to read:

CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

Article 1. General Provisions

94800. This chapter shall be known, and may be cited, as the California Private Postsecondary Education Act of 2008.

94801. Whenever a reference is made to the Bureau for Private Postsecondary and Vocational Education, by the provisions of any statute or regulation, that reference shall be construed as referring to the Bureau for Private Postsecondary Education. Whenever a reference is made to the Council for Private Postsecondary Education and Vocation Education, by the provisions of any statute

1 of regulation, that reference shall be construed as referring to the
2 Bureau for Private Postsecondary Education.

3 94801.1. The Legislature finds and declares the following:

4 (a) In 2007, there were more than 400,000 Californians
5 attending more than 1,500 private postsecondary schools in
6 California. Many of these students are low-income students who
7 incur up to tens of thousands of dollars in long-term debt in an
8 effort to learn a trade and become employed in order to financially
9 provide for themselves and their families.

10 (b) Private postsecondary schools complement the public
11 education system and help develop a trained workforce to meet
12 the demands of California businesses and the economy.

13 (c) Numerous reports and studies have concluded that California
14 law and regulatory oversight failed to enforce student protections
15 or provide effective oversight of private postsecondary schools.
16 The law and regulatory oversight were allowed to expire on June
17 30, 2007, thereby creating an urgent need to reform the law and
18 create a new regulatory structure to take effect as soon as possible.

19 (d) This chapter intends to provide a body of law that ensures
20 all of the following:

21 (1) Minimum educational quality standards and opportunities
22 for success for California students attending private postsecondary
23 schools.

24 (2) Meaningful student protections through essential avenues
25 of recourse for students.

26 (3) A regulatory structure that provides for an appropriate level
27 of oversight.

28 (4) A regulatory governance structure that ensures that all
29 stakeholders have a voice and are heard in policymaking by the
30 new bureau created by this chapter.

31 (5) A regulatory governance structure that provides for
32 accountability and oversight by the Legislature through program
33 monitoring and periodic reports.

34 (e) The law has historically failed to address the issue of
35 Internet-based education. It is widely believed that up to 20 percent
36 of the private postsecondary education provided in California in
37 2007 is Internet based. Therefore, this chapter calls for a thorough
38 review of Internet-based private postsecondary education. This
39 review is intended to serve as a basis for future policymakers to

1 *address any deficiencies in law in regulating Internet-based private*
2 *postsecondary education.*

3 *(f) The Legislature advises future policymakers to continually*
4 *and carefully evaluate this chapter and its administration and*
5 *enforcement. Where there are deficiencies in the law or regulatory*
6 *oversight, the Governor and Legislature should act quickly to*
7 *correct them. A failure to act in a timely manner allowed expiration*
8 *of the regulatory structure on June 30, 2007. This history should*
9 *never be repeated.*

10 94801.2. (a) *The Legislature finds that the Accrediting*
11 *Commission for Senior Colleges and Universities, Western*
12 *Association of Schools and Colleges (ACSCU) and the Accrediting*
13 *Commission for Community and Junior Colleges and Universities,*
14 *Western Association of Schools and Colleges (ACCJC) (collectively*
15 *WASC) serve as unique and reliable authorities for establishing*
16 *and maintaining standards for public and private institutions*
17 *providing postsecondary education in California for the following*
18 *reasons:*

19 *(1) WASC has acted as the regional accrediting association for*
20 *colleges and universities based in California for more than 40*
21 *years. This includes all campuses of the University of California,*
22 *California State University, and California Community Colleges.*
23 *Its effectiveness has been affirmed in numerous past external*
24 *studies.*

25 *(2) For private institutions, ACSCU and ACCJC require, as*
26 *one condition for eligibility for accreditation, that an applicant*
27 *institution first apply for and obtain a license from the Bureau of*
28 *Private Postsecondary Education thereby assuring Californians*
29 *that all applicant institutions have been found by the bureau to*
30 *meet the state's licensure standards prior to being considered for*
31 *accreditation.*

32 *(3) A majority of the commission members on the ACSCU and*
33 *ACCJC are residents of California and represent a diversity of*
34 *backgrounds and interests.*

35 *(4) WASC does not discriminate based on location or geography.*
36 *ACSCU and ACCJC policies and practices permit an institution*
37 *that is accredited by a different regional accrediting association*
38 *to apply for accreditation from ACSCU and ACCJC if that*
39 *institution maintains sufficient presence in California. Institutions*

1 *accredited by a different regional accrediting association have*
2 *been granted accreditation by WASC.*

3 *(5) Through a full faith and credit agreement with other regional*
4 *accredited agencies, WASC has a process whereby institutions*
5 *accredited by other regional accredited agencies may also be*
6 *accredited by WASC in an expeditious manner. This agreement*
7 *allows institutions that are accredited by other regional accredited*
8 *agencies to be accredited by WASC in a matter of only a few*
9 *months, compared to a process that may normally take several*
10 *years.*

11 *(6) ACCJC provides periodic on campus visits to all WASC*
12 *accredited institutions and for each California campus.*

13 *(7) ACSCU and ACCJC regularly meet in California, publish*
14 *the time and place of meetings in advance, and permit and*
15 *encourage interested Californians to attend the public portions of*
16 *meetings and comment on policies under consideration by their*
17 *respective commissions.*

18 *(8) WASC has demonstrated transparency and accountability*
19 *for Californians, on-campus oversight, and student protection for*
20 *Californians.*

21 *(9) In 2007, the United State District Court, Central District of*
22 *California, issued a judgment in Saro Daghljan vs. Devry*
23 *University, Inc., which is currently on appeal before the United*
24 *States Court of Appeals for the Ninth Circuit. In this case, the*
25 *district court found a portion of the 1989 Postsecondary and*
26 *Vocational Education Reform Act (Reform Act) to impermissibly*
27 *discriminate against out-of-state regionally accredited educational*
28 *institutions. Conversely, this chapter is based on legislative findings*
29 *pertinent to the regional accreditation process that were not*
30 *available to the district court at the time of its judgment. The scope,*
31 *requirements, and approval process of this chapter are distinct*
32 *from that of the Reform Act. Consequently, the Legislature finds*
33 *and declares that the contents of the chapter will effectively*
34 *distinguish itself from the Reform Act and preclude the application*
35 *of the district court's reasoning in Saro Daghljan vs. Devry*
36 *University, Inc. to this act.*

37 *(b) Based on the above findings, the Legislature finds that there*
38 *are compelling reasons to grant WASC accredited institutions a*
39 *complete exemption from the requirements of this chapter.*

1 94801.3. *The Bureau for Private Postsecondary Education is*
2 *subject to periodic and ongoing review by the Legislature.*

3 94801.4. *It is the intent and purpose of this chapter to protect*
4 *students, reputable institutions, the public, and the economy of the*
5 *state; ensure appropriate operational standards; ensure*
6 *institutional stability; ensure minimum standards for educational*
7 *quality, including through accountability for program completion*
8 *and student placement in occupations or job titles to which training*
9 *is represented to lead; prohibit various misrepresentations,*
10 *including misrepresentations related to the quality of education,*
11 *the availability and quality of equipment, software, and materials,*
12 *the transferability of credits, and employment availability and*
13 *range of salary opportunities; require full disclosure of all material*
14 *facts regarding the course or program of instruction; and protect*
15 *the citizens of California against fraud, misrepresentation, or other*
16 *practices that may lead to loss of funds paid for educational costs,*
17 *whether financed through personal resources, state and federal*
18 *student financial aid, or private loans. It is also the intent and*
19 *purpose of this chapter to ensure that the cost to taxpayers of*
20 *government loans and grants for instruction is commensurate with*
21 *the benefits obtained by students and flowing to the state's*
22 *economy.*

23 94801.5. *There is a Bureau for Private Postsecondary*
24 *Education in the Department of Consumer Affairs. The bureau*
25 *has the responsibility for approving and regulating private*
26 *postsecondary educational institutions and programs.*

27 94801.6. (a) *Protection of the public shall be the highest*
28 *priority for the bureau in exercising its approval, regulatory, and*
29 *disciplinary functions. The bureau shall have all of the following*
30 *objectives:*

31 (1) *Protection of the public from fraud and misrepresentation*
32 *and from illegal, unscrupulous, or unethical practices.*

33 (2) *To encourage students to make informed decisions.*

34 (3) *The development of a strong, vigorous, and widely respected*
35 *sector of private postsecondary education that protects the interests*
36 *of students and the public and serves the interests of the economy*
37 *of California.*

38 (b) *Whenever the protection of the public is inconsistent with*
39 *other interests sought to be promoted, the protection of the public*
40 *shall be paramount.*

1 94801.7. *The proceedings under this chapter shall be conducted*
2 *by the bureau in accordance with the provisions of this chapter*
3 *or Chapter 5 (commencing with Section 11500) of Part 1 of*
4 *Division 3 of Title 2 of the Government Code at the bureau's*
5 *option. To the extent of any conflict between any of the provisions*
6 *of this chapter and Chapter 5 (commencing with Section 11500)*
7 *of Part 1 of Division 3 of Title 2 of the Government Code, this*
8 *chapter shall prevail.*

9 94801.8. *Regulations required by and necessary to fully*
10 *implement this chapter shall be adopted by July 1, 2009, and shall*
11 *be amended periodically as needed by the bureau to fully*
12 *implement the intent of this article.*

13
14 Article 2. *Transition Provisions*
15

16 94802. (a) *An institution that had a valid approval to operate*
17 *on June 30, 2007, issued by the Bureau for Private Postsecondary*
18 *and Vocational Education pursuant to Chapter 7 (commencing*
19 *with Section 94700) of Part 59 of Division 10 of Title 3, as it*
20 *existed on June 30, 2007, which was not revoked, shall maintain*
21 *that approval under this chapter. For the purposes of this chapter,*
22 *the approval shall be valid until two calendar years after the*
23 *expiration date of the approval, as it existed on June 30, 2007.*

24 (b) *Applications for reapproval that had been pending action*
25 *before the Bureau for Private Postsecondary and Vocational*
26 *Education on June 30, 2007, shall be deemed processed as follows:*

27 (1) *Applications received prior to January 1, 2006, shall be*
28 *granted a reapproval until 2009 to coincide with the anniversary*
29 *date of the current approval.*

30 (2) *Applications received after January 1, 2006, shall be granted*
31 *a reapproval until 2010 to coincide with the anniversary date of*
32 *the current approval.*

33 (c) *Students enrolling in institutions approved under subdivision*
34 *(b) shall be notified during the enrollment process that the*
35 *institution's application for approval to operate has not been fully*
36 *reviewed by the bureau.*

37 94803. *Notwithstanding any other provision of law:*

38 (a) *Each matter submitted to the Bureau for Private*
39 *Postsecondary and Vocational Education prior to July 1, 2007,*
40 *shall be deemed to remain pending before the bureau irrespective*

1 of any applicable deadlines. With respect to any deadline
2 applicable to a pending matter, no time shall be deemed to have
3 elapsed from July 1, 2007, through June 30, 2008, inclusive.

4 (1) For the purposes of this subdivision, “matter” includes, but
5 is not necessarily limited to, an appeal, a complaint, an evaluation,
6 a hearing, or an investigation.

7 (2) For the purposes of this subdivision, “matter” does not
8 include a Student Tuition Recovery Fund Claim. Nothing in this
9 paragraph shall be construed to prevent the payment of existing
10 Student Tuition Recovery Fund claims that have been filed with,
11 and approved by, the Bureau for Private Postsecondary and
12 Vocational Education as of June 30, 2007.

13 (b) Student complaints received from July 1, 2007, through June
14 30, 2008, inclusive, continue to be duly recorded and investigated
15 to the extent possible so that no Californian is harmed by the delay
16 in the provision of full services.

17 (c) Any institution, program, or course of study that is approved
18 by the bureau or authorized pursuant to Section 94905, as it read
19 on June 30, 2007, as of the close of business on June 30, 2007,
20 shall be deemed to be approved as of July 1, 2008, irrespective of
21 any applicable conditions, deadlines, or additional requirements.
22 With respect to any deadline applicable to the approval, renewal
23 of approval, or conditional approval of an institution, program,
24 or course of study, no time shall be deemed to have elapsed
25 between July 1, 2007, and June 30, 2008, inclusive.

26 (d) For any claims that a student had against a covered
27 institution, the period from June 30, 2007, to January 1, 2009,
28 inclusive, shall be excluded in determining the deadline or the
29 statute of limitation for filing a lawsuit based on those claims.

30 94803.5. (a) Each regulation in Division 7.5 (commencing
31 with Section 70000) of Title 5 of the California Code of Regulations
32 in effect on June 30, 2007, shall be in full force and effect on and
33 after July 1, 2008. By July 1, 2009, the bureau shall amend
34 Division 7.5 (commencing with Section 70000) of Title 5 of the
35 California Code of Regulations to amend or repeal any regulation
36 that is inconsistent with this chapter.

37 (b) The bureau may adopt emergency regulations, as necessary,
38 to allow for the immediate implementation of this chapter.

39 94804. The bureau shall succeed to any and all rights and
40 claims of the former Bureau for Private Postsecondary and

1 *Vocational Education that may have been asserted in a judicial*
2 *or administrative action pending on July 1, 2007, and shall take*
3 *any action reasonably necessary to assert and realize those rights*
4 *and claims in its own name. The functions of the former Bureau*
5 *for Private Postsecondary and Vocational Education, and the*
6 *responsibilities the former bureau had for the administration of*
7 *former Chapter 7 (commencing with Section 94700) on June 30,*
8 *2007, and January 1, 2008, are transferred to the new Bureau for*
9 *Private Postsecondary Education, effective July 1, 2008, as*
10 *provided by this chapter. Notwithstanding any other provision of*
11 *law, Section 19050.9 of the Government Code shall apply*
12 *regardless of the date on which former Chapter 7 (commencing*
13 *with Section 94700) became inoperative or was repealed.*

14 94805. *The bureau shall have possession and control of all*
15 *records, papers, offices, equipment, supplies, or other property,*
16 *real or personal, held for the benefit or use by the former Bureau*
17 *for Private Postsecondary and Vocational Education in the*
18 *performance of the duties, powers, purposes, responsibilities, and*
19 *jurisdictions that are vested in the bureau.*

20 94806. (a) *The Private Postsecondary and Vocational*
21 *Education Administration Fund established by former Section*
22 *94932 of the Education Code, and extended by Chapter 635 of the*
23 *Statutes of 2007, is continued in existence, and is renamed the*
24 *Private Postsecondary Education Administration Fund.*

25 (b) *It is the intent of the Legislature that the Private*
26 *Postsecondary Education Administration Fund be administered,*
27 *and that fees be established and collected, in a manner that assures*
28 *full and effective implementation of this chapter.*

29 94807. *The Student Tuition Recovery Fund established by*
30 *former Section 94944 of the Education Code, and extended by*
31 *Chapter 635 of the Statutes of 2007, is continued in existence.*

32 94808. (a) *Any Student Tuition Recovery Fund claims received*
33 *by the former Bureau for Private Postsecondary and Vocational*
34 *Education prior to July 1, 2007, that were not processed by the*
35 *former Bureau for Private Postsecondary and Vocational*
36 *Education and were not paid by the department between July 1,*
37 *2007, and June 30, 2008, inclusive, shall be processed by the*
38 *bureau in accordance with this chapter.*

1 (b) Any Student Tuition Recovery Fund claims received by the
2 department between July 1, 2007, and June 30, 2008, inclusive,
3 shall be processed by the bureau in accordance with this chapter.

4 (c) Any Student Tuition Recovery Fund claims received by the
5 department after June 30, 2008, for actions that occurred prior to
6 July 1, 2007, shall be processed by the bureau in accordance with
7 this chapter.

8 (d) The student's right to recovery from the Student Tuition
9 Recovery Fund or the Private Postsecondary Education
10 Administrative Fund shall be based on the law that was in effect
11 when the student enrolled and a fee for the fund was charged as
12 a part of tuition costs, whether or not a claim was filed prior to
13 July 1, 2007.

14 94809. (a) Approved institutions with applications on file,
15 excluding Student Tuition Recovery Fund and certificate of
16 authorization applications, that were pending with the former
17 Bureau for Private Postsecondary and Vocational Education as
18 of July 1, 2007, may continue to operate.

19 (b) An institution that did not have a valid approval issued by,
20 or an application for approval pending with, the former Bureau
21 for Private Postsecondary and Vocational Education on June 30,
22 2007, that began operations on or after July 1, 2007, may continue
23 to operate through December 31, 2008, but shall comply with and
24 is subject to this chapter, and shall submit an application to the
25 bureau pursuant to this chapter.

26 (c) Students enrolling in institutions approved under subdivision
27 (b) shall be notified during the enrollment process that the
28 institution's approval to operate has not been reviewed by the
29 bureau.

30 94809.5. (a) Notwithstanding any exemption from this chapter
31 under Article 3 (commencing with Section 94810) or any other
32 provision of law, the rights and obligations established by the
33 Private Postsecondary and Vocational Education Reform Act of
34 1989 on or before June 30, 2007, shall be determined by the law
35 in effect on or before June 30, 2007, and any claim or cause of
36 action in any manner based on the act that arose on or before June
37 30, 2007, whether or not reduced to a final judgment, shall be
38 preserved, and any remedy that was or could have been ordered
39 to redress a violation of the act on or before June 30, 2007, may
40 be ordered or maintained thereafter.

1 (b) *The rights, obligations, claims, causes of action, and*
2 *remedies described in subdivision (a) shall remain subject to the*
3 *provisions of the Private Postsecondary and Vocational Education*
4 *Reform Act of 1989 in effect on or before June 30, 2007,*
5 *notwithstanding the inoperative status or repeal of the Private*
6 *Postsecondary and Vocational Education Reform Act of 1989 on*
7 *or after July 1, 2007.*

8
9 Article 3. *Definitions*

10
11 94810. *Unless the context requires otherwise, the definitions*
12 *set forth in this article govern the construction of this chapter.*

13 94811. *“Ability-to-benefit student” means a student who does*
14 *not have a certificate of graduation from a school providing*
15 *secondary education, or a recognized equivalent of that certificate*
16 *such as a GED prior to completion of the course.*

17 94812. *“Academic year” means a period, including a minimum*
18 *of 30 weeks of instructional time, in which a full-time student*
19 *attending an institution that measures educational program length*
20 *in credit hours completes 24 semester or trimester hours or 36*
21 *quarter hours, or an institution that measures educational program*
22 *length in clock hours completes at least 900 clock hours.*

23 94813. *“Accredited” means an institution is recognized or*
24 *approved by an accrediting agency recognized by the United States*
25 *Department of Education.*

26 94814. *“Accrediting agency” means an agency recognized by*
27 *the United States Department of Education.*

28 94815. *“Annual report” means the report required to be filed*
29 *pursuant to Section 94883.6.*

30 94816. *“Applicant” means a person or entity that has submitted*
31 *an application for renewal or approval to operate on which the*
32 *bureau has not yet made a determination. An applicant shall not*
33 *enroll students or offer education without an approval to operate.*

34 94817. *“Approval to operate” means the authorization to offer*
35 *to the public and to provide postsecondary educational programs,*
36 *as well as the written document issued by the bureau to an*
37 *institution signifying its approval to operate.*

38 94818. *“Avocational education” means education offered*
39 *exclusively for the purpose of personal entertainment, pleasure,*
40 *or enjoyment.*

1 94819. “Branch campus” means a site other than the main
2 campus or a satellite location.

3 94820. “Bureau” means the Bureau for Private Postsecondary
4 Education in the Department of Consumer Affairs.

5 94820.5. “Certified” means having passed an examination
6 that attests to the quality and level of knowledge by a qualified
7 certification authority or organization that is not affiliated with
8 an institution.

9 94821. “Change in business organization form” means a
10 change of a business organization’s original form, including, for
11 example, a situation in which a sole proprietorship becomes a
12 partnership or corporation, or when a business organization
13 becomes a nonprofit public benefit corporation or forms a
14 nonprofit public benefit corporation as a subsidiary to provide the
15 educational programs for which the business organization has an
16 approval to operate.

17 94822. “Change of location” means a move or relocation more
18 than 10 miles from the site at which the institution offers
19 instruction.

20 94823. “Change of ownership” means the acquisition by a
21 person of more than 50 percent of an interest in or stock of a parent
22 company.

23 94823.5. “Class” or “course” means a subject, such as English
24 or mathematics that is taught as part of a program.

25 94824. “Class day” means a day a student is scheduled to
26 attend class session, or for students receiving instruction through
27 distance education, any calendar day except Saturday, Sunday,
28 or any holiday enumerated in Section 6700 of the Government
29 Code.

30 94825. “Class session” means part of a class day that an
31 institution conducts instruction in a particular subject.

32 94825.5. “Clock hour” means 50 to 60, inclusive, minutes and
33 is used to measure the length of any program of study that does
34 not lead to a degree.

35 94826. “Commence operations” means an institution has
36 begun to provide educational programs.

37 94827. (a) “Continuing education” means instruction in
38 subjects that licensees are required to take solely for the purpose
39 of continued licensure, or to enhance their skills and knowledge

1 within their particular profession, occupation, trade, or career
2 field.

3 (b) “Continuing education” does not include any of the
4 following:

5 (1) A vocational program.

6 (2) A degree program.

7 (3) An educational service where any part of the charge for
8 which is paid from the proceeds of a loan or grant subject to a
9 governmental student financial aid program.

10 94827.5. “Credit hour” means the unit of measure by which
11 institutions measure its degree coursework. The number of credit
12 hours assigned to a course is defined by the number of hours per
13 week in class and preparation and the number of weeks in a term.
14 One credit hour is usually assigned for three hours of student work
15 per week or its equivalent. The three hours of student work per
16 week usually consists of a combination of one hour of lecture and
17 two hours of homework or three hours of laboratory. Semester
18 and quarter credit hours are based on at least a 15-week term or
19 its equivalent. A quarter credit hour is based on at least a 10-week
20 term or its equivalent.

21 94828. “Curriculum” means an organized set of courses or
22 modules of instruction that are prerequisites to the award of a
23 degree or diploma.

24 94828.5. “Custodian of records” means the person responsible
25 for maintaining records.

26 94829. “Default” means failure of a borrower and endorser,
27 if any, to make an installment payment for a loan received under
28 the federal student financial aid programs when due, or to meet
29 other terms of the promissory note, provided that this failure
30 persists for 270 days if payment is due monthly or 330 days if
31 payment is due less frequently.

32 94830. “Degree” means any type of degree or honorary degree
33 or title of any designation, mark, appellation, series of letters or
34 words including, but not necessarily limited to, associate, bachelor,
35 master, doctor, or fellow, that signifies, purports to constitute, or
36 is generally taken to signify, satisfactory completion of the
37 requirements of an academic, educational, technological, or
38 professional program of study beyond the secondary educational
39 level, or is an honorary title conferred for recognition of some
40 meritorious achievement.

1 94831. “Degree title” means the designated subject area of
2 the educational program that appears on the face of the document
3 awarded to a student.

4 94831.1. “Department” means the Department of Consumer
5 Affairs.

6 94832. “Diploma” means a recognized educational credential,
7 other than a degree, awarded by an institution that signifies
8 satisfactory completion of the requirements of a postsecondary
9 educational program below the associate’s level. A diploma is
10 also known as a certificate.

11 94833. “Director” means the Director of Consumer Affairs.

12 94834. “Distance learning” means lessons for study and
13 completion by a student at a location separate from an institution
14 with a physical location in California by home study,
15 correspondence, or the Internet or other electronic means,
16 including the instruction offered in combination with instruction
17 at the institution.

18 94835. “Document of record” means any document required
19 to be maintained by this chapter.

20 94836. “Educational materials” means textbooks, supplies,
21 implements, tools, machinery, computers, software, electronic
22 devices, or other goods related to any education, training, or
23 experience required for participation in an educational program.

24 94837. “Educational program” means a planned sequence
25 composed of a single course or module, or set of related courses
26 or modules, that provides the education, training, skill, and
27 experience leading to the award of a recognized educational
28 credential such as a degree or diploma.

29 94838. “Educational program approval” means authorization
30 by the bureau, another government agency of this state, or a federal
31 government agency, to provide educational programs, and is an
32 element of an approval to operate.

33 94838.5. “Employment” means a paid position in which all of
34 the following occurred:

35 (a) A student was employed for at least 60 days within the
36 employment tracking period, in an occupation for which the student
37 received his or her degree or diploma.

38 (b) The position requires education beyond the high school
39 level.

1 (c) *The routine work in the position requires utilization of the*
2 *skills and knowledge reasonably expected to be imparted in a*
3 *program culminating in the degree or certificate the student*
4 *received.*

5 (d) *Full-time employment for a minimum of 35 hours per week*
6 *or part-time employment for a minimum of 20 hours and no more*
7 *than 35 hours per week.*

8 94839. *“Enrollment” means the execution of an enrollment*
9 *agreement.*

10 94840. *“Enrollment agreement” means a written contract*
11 *between a student and institution concerning an educational*
12 *program.*

13 94841. *“Faculty” means the instructional staff of an institution,*
14 *whether these persons are employees or independent contractors.*
15 *For purposes of this chapter, “faculty,” “instructor,” “professor,”*
16 *and “teacher” are synonymous.*

17 94841.5. *“Franchise institution” means a newly established*
18 *location of an existing approved institution offering postsecondary*
19 *education services leading to candidacy for psychology licensure*
20 *that bears the same name as the existing approved institution and*
21 *about which either of the following is true:*

22 (a) *The newly established location is owned or financially*
23 *controlled by an individual or individuals other than those who*
24 *own or financially control the existing approved institution.*

25 (b) *The newly established location is administered by an*
26 *individual or individuals other than those persons who administer*
27 *the existing approved institution.*

28 94842. *“Graduate” means an individual that has been awarded*
29 *a degree or diploma.*

30 94843. *“Institution” means any private postsecondary*
31 *educational institution, including its branch campuses and satellite*
32 *locations.*

33 94844. *“Institutional charges” means charges for an*
34 *educational program paid directly to an institution.*

35 94845. *“Institution manager” means an individual who is a*
36 *member of an institution’s management.*

37 94846. *“Instruction” means an institution’s specific, formal*
38 *arrangements in which its faculty present a part of the curriculum.*

39 94847. *“License and examination preparation” means*
40 *instruction designed to assist students to prepare for an*

1 examination for licensure, or offered for the sole purpose of
2 providing continuing education in subjects licensees are required
3 to take as a condition of continued licensure.

4 94848. "Licensure" includes any license, certificate, permit,
5 or similar credential that a person must hold to lawfully engage
6 in a profession, occupation, trade, or career field.

7 94849. "Main campus," "main location," or "main site"
8 means the institution's sole or primary teaching location. If an
9 institution operates at only one site, that site is its main campus,
10 main location or main site.

11 94850. "Noninstitutional charges" means charges for an
12 educational program paid to an entity other than an institution
13 that are specifically required for participation in an educational
14 program.

15 94850.2. "Out-of-state institution" means an institution that
16 has its place of instruction or its principal location outside the
17 boundaries of this state, that offers or conducts programs on
18 premises maintained by the institution outside the boundaries of
19 this state, that provides distance learning materials from a location
20 outside the boundaries of this state, that evaluates completed lesson
21 materials or otherwise conducts its evaluation service from a
22 location outside the boundaries of this state, or that otherwise
23 offers or provides California students with programs through
24 activities engaged in or conducted outside the boundaries of this
25 state.

26 95850.3. "Overall employment rate" means the percentage of
27 those students who started the program, did not cancel during the
28 cancellation period, and were originally scheduled at the time of
29 enrollment to complete the program during the applicable
30 completion tracking period who both completed the program within
31 that completion tracking period and obtained employment.

32 94851. "Owner" means a person who has a legal or equitable
33 interest in 10 percent or more of an institution's stocks or assets.

34 94852. "Ownership" means a legal or equitable interest in an
35 institution, including ownership of assets or stock.

36 94853. "Parent company" means a partnership, limited
37 liability company, or corporation that owns more than 50 percent
38 of the stock or interest in an institution.

1 94854. “Period of attendance” means a semester, quarter, or
2 trimester for educational programs measured in credit hours and
3 the entire educational program if measured in clock hours.

4 94855. “Person” means a natural person or a business entity,
5 regardless of the form or organization.

6 94856. “Person in control” means a person who has sufficient
7 capacity, directly or indirectly, to direct or influence the
8 management, policies, or conduct of an institution so that the
9 person can cause or prevent a violation of this chapter. There is
10 a rebuttable presumption affecting the burden of proof that an
11 owner, director, or officer of an institution is a person in control.

12 94857. “Postsecondary education” means a formal institutional
13 educational program whose curriculum is designed primarily for
14 students who have completed or terminated their secondary
15 education or are beyond the compulsory age of secondary
16 education, including programs whose purpose is academic,
17 vocational, or continuing professional education.

18 94858. “Private postsecondary educational institution” means
19 a private entity with a physical presence in this state that offers
20 postsecondary education to the public for an institutional charge.

21 94858.1. “Program” or “program of instruction” means an
22 educational program of training, course, set of related courses,
23 or education for which a student enrolls.

24 94859. “Recruiter” means an employee of an institution whose
25 principal job responsibilities are the recruitment of students other
26 than on the institution’s premises.

27 94860. “Recruitment” means actions taken by recruiters
28 seeking enrollment of students.

29 94861. “Reporting period” means the institution’s fiscal year
30 or any yearly period designated by the bureau to be covered in
31 the institution’s annual report.

32 94861.1. “Representative” means an employee who does either
33 of the following:

34 (a) Solicits, promotes, advertises, or refers or recruits students
35 or prospective students for an institution.

36 (b) Is involved with enrollment, admissions, student attendance,
37 administration, financial aid, instruction, or job placement
38 assistance on behalf of an institution.

1 94861.2. “Admissions representative” means an employee or
2 agent of an institution or other person who, for compensation,
3 does any of the following:

4 (a) Tries to convince prospective students to enroll at the
5 institution.

6 (b) Enrolls students by getting them to fill out the required
7 documents, including the enrollment agreement, disclosures and
8 financial aid documents.

9 (c) Provides prospective students information about the school.

10 (d) Answers student questions even after enrollment.

11 94862. “Satellite location” means an auxiliary classroom or
12 teaching site within 50 miles of the branch or main location at
13 which all of the following apply:

14 (a) Only educational services that are approved at the main
15 location shall be offered at the satellite.

16 (b) The permanent records of attendance or academic progress
17 for students taking courses or enrolled in a program at the satellite
18 shall be maintained at the main location.

19 (c) Advertisement of a satellite shall indicate that the satellite
20 is an auxiliary classroom or a teaching site.

21 94863. “Satisfactory academic progress” means the qualitative
22 and quantitative measures an institution uses to assess a student’s
23 academic progress, including progress towards the completion of
24 his or her educational program within 150 percent of the published
25 length of the educational program.

26 94863.1. “Scheduled to complete” means the date the
27 institution determined, when the student enrolled, that the student
28 was scheduled to complete the program.

29 94864. “Shift in control” means a change in the ownership of
30 an institution where a person who previously did not own at least
31 25 percent of the stock or interest in an institution or its parent
32 company acquires ownership of at least 25 percent of the stock or
33 interest in the institution or its parent company.

34 94865. “Site” means a main or branch campus or satellite
35 location.

36 94866. “Teach-out” means the arrangements an institution
37 makes for its students to complete their educational programs, at
38 no additional cost over that amount agreed to in the initial
39 enrollment agreement, when the institution ceases to operate.

1 94867. “Third-party payer” means an employer, government
2 program, or other entity that pays a student’s total charges when
3 no separate agreement for the repayment of the charges exists
4 between the third-party payer and the student.

5 94868. “To offer” includes in addition to its usual meaning,
6 offering, advertising, publicizing, soliciting, encouraging, or
7 offering to a person, directly or indirectly, in any form, to perform
8 an act as described.

9 94869. “To operate” means to establish, keep, or maintain
10 any facility or location in this state where or from which or through
11 which postsecondary educational programs are provided.

12 94870. “Total charge” means the total institutional and
13 noninstitutional charge for a program or other education,
14 instruction, or training, including the charge for tuition, equipment,
15 finance charges paid to the institution, and all other fees, charges,
16 costs, and expenses paid to the institution.

17 94871. “Vocational associate’s degree” means an associate’s
18 degree awarded to students in an educational program consisting
19 of instruction in preparation for employment in a profession,
20 occupation, trade, or career field.

21 94872. “Vocational program” means an educational program
22 having all of the following characteristics:

23 (a) The educational program consists of a job-training program
24 or other instruction, training, or education that the institution
25 identifies as, or represents as a program that will lead to, fit, or
26 prepare students for employment in any particular occupation.

27 (b) The program is offered to students who do not possess a
28 bachelor’s or a graduate degree in the field of training.

29 (c) Students who complete all or a portion of the program are
30 awarded a certificate or an associate degree, including, but not
31 necessarily limited to, an Occupational Associate Degree,
32 Associate of Occupational Studies, or Associate of Applied Science.

33 94873. “Year” means a calendar year.
34

35 Article 4. Exemptions 36

37 94874. (a) The following private institutions are exempt from
38 the requirements of this chapter:

39 (1) An institution offering education solely as avocational or
40 recreational in nature, and offering this education exclusively.

1 (2) *An institution offering nondegree education sponsored by*
2 *a bona fide trade, business, professional, or fraternal organization,*
3 *solely for that organization's membership.*

4 (3) *An institution offering continuing education where the*
5 *institution or the program is approved, certified, or sponsored by*
6 *any of the following:*

7 (A) *A government agency, other than the bureau, that licenses*
8 *persons in a particular profession, trade, or job category.*

9 (B) *A state-recognized professional licensing body, such as the*
10 *State Bar of California, that licenses persons in a particular*
11 *profession, trade, or job category.*

12 (C) *A bona fide trade, business, or professional organization.*

13 (4) (A) *A nonprofit institution owned, controlled, and operated*
14 *and maintained by a bona fide church, religious denomination, or*
15 *religious organization composed of multidenominational members*
16 *of the same well-recognized religion, lawfully operating as a*
17 *nonprofit religious corporation pursuant to Part 4 (commencing*
18 *with Section 9110) of Division 2 of Title 1 of the Corporations*
19 *Code, that meets all of the following requirements:*

20 (i) *The education is limited to instruction in the principles of*
21 *that church, religious denomination, or religious organization, or*
22 *to courses offered pursuant to Section 2789 of the Business and*
23 *Professions Code.*

24 (ii) *The certificate or degree is limited to evidence of completion*
25 *of that education.*

26 (iii) *The meritorious recognition upon which any honorary*
27 *degree is conferred is limited to the principles of that church,*
28 *religious denomination, or religious organization.*

29 (B) *An institution operating under this paragraph shall offer*
30 *degrees and diplomas only in the beliefs and practices of the*
31 *church, religious denomination, or religious organization.*

32 (C) *This paragraph expresses the legislative intent that the state*
33 *shall not involve itself in the content of certificate or degree*
34 *programs awarded by any institution operating under this*
35 *paragraph, as long as the institution awards certificates or degrees*
36 *only in the beliefs and practices of the church, religious*
37 *denomination, or religious organization.*

38 (D) *An institution exempt under this paragraph shall not award*
39 *certificates or degrees in any area of physical science.*

1 (E) Any certificate or degree granted in any area of study under
2 this paragraph shall contain on its face, in the written description
3 of the title of the certificate or degree being conferred, a reference
4 to the theological or religious aspect of the certificate or degree's
5 subject area.

6 (F) A degree awarded under this paragraph shall reflect the
7 nature of the degree title, such as "associate of religious studies,"
8 "bachelor of religious studies," "master of divinity," or "doctor
9 of divinity."

10 (G) The use of the degree titles "associate of arts" or "associate
11 of science," "bachelor of arts" or "bachelor of science," "master
12 of arts" or "master of science," or "doctor of philosophy" or
13 "Ph.D." shall only be awarded by institutions approved to operate
14 under this chapter.

15 (5) Institutions solely offering nondegree programs that have
16 a total charge of one thousand five hundred dollars (\$1,500) or
17 less. The bureau shall monitor these programs and may adjust this
18 cost threshold based upon the Consumer Price Index, and post
19 notification of the adjusted cost threshold on its Internet Web site
20 on or after January 1, 2010, and each January 1 thereafter if the
21 bureau determines, through promulgation of regulations, that the
22 increase is consistent with the intent of this chapter.

23 (6) All private postsecondary institutions offering instruction
24 in California which are accredited by either the Accrediting
25 Commission for Senior Colleges and Universities, Western
26 Association of Schools and Colleges, or the Accrediting
27 Commission for Community and Junior Colleges and Universities,
28 Western Association of Schools and Colleges.

29 (7) Except as provided in Article 10.5 (commencing with Section
30 94914.3) and Article 13 (commencing with Section 94923), all
31 private postsecondary institutions, other than those exempt under
32 paragraph (6), offering instruction in California which are
33 accredited by a regional accrediting agency recognized by the
34 United States Department of Education.

35 (b) Except as provided in Article 13 (commencing with Section
36 94923), any nonprofit public benefit corporation organized
37 pursuant to Part 2 (commencing with Section 5110) of Division 2
38 of Title 1 of the Corporations Code and not managed or
39 administered by an entity for profit, that meets all of the following

1 *requirements is exempt from this chapter except as otherwise*
2 *specifically provided in this chapter:*

3 *(1) Accredited by an accrediting agency recognized by the*
4 *United States Department of Education.*

5 *(2) Operated continuously in this state for at least 20 years.*

6 *(3) The institution's cohort default rate on guaranteed student*
7 *loans does not exceed 15 percent for the three most recent years*
8 *as published by the United States Department of Education.*

9 *(4) The institution submits to the bureau copies of the most*
10 *recent IRS Form 990 and the Integrated Postsecondary Education*
11 *Data System Report of the United States Department of Education*
12 *and the accumulated default rate.*

13 *(5) The institution pays fees to the bureau in accordance with*
14 *Article 5 (commencing with Section 94875).*

15 *(c) To verify that any institution is exempt from this chapter,*
16 *the bureau shall review and continue to monitor the accreditation*
17 *status of each institution to determine if the institution received a*
18 *negative accreditation action at any time. The bureau's duty under*
19 *this provision does not relieve any institution from its obligation*
20 *to comply with this chapter.*

21
22 *Article 5. Bureau Powers and Duties*
23

24 *94875. The Bureau for Private Postsecondary Education, as*
25 *established by Section 6 of Chapter 635 of the Statutes of 2007, is*
26 *continued in existence and shall commence operations. This*
27 *chapter establishes the functions and responsibilities of the bureau,*
28 *for the purposes of Section 6 of Chapter 635 of the Statutes of*
29 *2007. The bureau has all of the following functions and*
30 *responsibilities:*

31 *(a) The administration of this chapter and promulgation of*
32 *necessary regulations consistent with the intent and purpose of*
33 *this chapter.*

34 *(b) The enforcement of this chapter and the approval of*
35 *institutions and programs that meet the requirements of this*
36 *chapter.*

37 *(c) The development and maintenance of an Internet Web site*
38 *that shall include clearly accessible and searchable information*
39 *regarding approved private postsecondary institutions in*
40 *California. The Internet Web site shall provide information for*

1 *prospective students so that they may make informed choices*
2 *regarding their educational opportunities and shall provide*
3 *information for current students so they may understand their*
4 *rights. The bureau's Internet Web site shall be operational by July*
5 *1, 2009, and shall provide all of the following information:*

6 *(1) A directory of unapproved institutions in California which*
7 *are subject to this chapter and warn students of the dangers of*
8 *attending unapproved institutions.*

9 *(2) A directory of approved institutions which shall include a*
10 *link to the Internet Web site of each institution.*

11 *(3) Disciplinary history of approved schools.*

12 *(4) Status of school's approval.*

13 *(5) Summary of complaints filed against the institution.*

14 *(6) An explanation of the transition plan for the reconstituted*
15 *bureau.*

16 *(7) An explanation of the bureau's scope of authority.*

17 *(d) Provide outreach to prospective and current private*
18 *postsecondary education students and high school students,*
19 *providing them with information on how best to select a*
20 *postsecondary institution, how to enter into a student enrollment*
21 *agreement, how to protect themselves in the postsecondary*
22 *education marketplace, and how to contact the bureau for*
23 *assistance if problems arise. The bureau may accomplish the*
24 *purposes of this subdivision in cooperation with the department.*

25 *(e) Establishment of a regular inspection program, which shall*
26 *include announced and unannounced inspections during normal*
27 *business hours of educational programs and institutions each year.*
28 *If student or public complaints have been received by the bureau*
29 *since the time of initial approval to operate all appropriate issues*
30 *raised in the complaints shall be investigated. Inspections under*
31 *the program may be based on, but not limited to, all of the*
32 *following:*

33 *(1) Documents submitted to the bureau by the institution.*

34 *(2) Complaints received about the institution.*

35 *(3) Accrediting agency documents.*

36 *(4) The time elapsed since a previous inspection.*

37 *(5) Any other rational basis.*

38 *(f) Review and investigation of institutions and programs*
39 *approved under this chapter.*

1 (h) *Objective and regular assessment of the cost of meeting its*
2 *statutory obligations, including the staffing necessary to meet those*
3 *obligations, a determination whether the prevailing fee structure*
4 *allows for collection of revenue sufficient to support the necessary*
5 *costs, and a report of that information to the Legislature and the*
6 *Governor through the annual State Budget process, and regular*
7 *adjustments to the fee and cost structure, as permitted in this*
8 *chapter, sufficient to ensure that the bureau accomplishes its*
9 *statutory obligations. Fees shall be raised immediately if the*
10 *bureau is not adequately performing its investigatory function with*
11 *respect to institution reviews and the investigation of student*
12 *complaints.*

13 (i) *The receipt, review, and investigation of complaints received*
14 *from students and the public, and complaints transmitted by other*
15 *federal, state, or local agencies, including timely responses and*
16 *appropriate investigations. The performance of this function shall*
17 *be the bureau's first priority.*

18 (j) *Development and maintenance of an information*
19 *management system sufficient to meet the bureau's responsibilities,*
20 *including, but not necessarily limited to, an Internet Web site and*
21 *database, as provided in this article.*

22 (k) *To the extent funding and resources are available for this*
23 *purpose, the establishment of a training program, including, but*
24 *not necessarily limited to, information and support necessary for*
25 *institutions to undertake corrective action to comply with this*
26 *chapter, information and support to assist in the successful*
27 *development of a new institution, and information and support to*
28 *assist existing institutions in development that is necessary for*
29 *them to become eligible for participation in student financial aid*
30 *programs under Title IV of the federal Higher Education Act of*
31 *1965.*

32 (l) *Establishment of a plan to identify unlicensed institutions*
33 *operating in violation of this chapter and initiate appropriate legal*
34 *enforcement action against those institutions.*

35 94876. (a) *The powers and duties set forth in this chapter are*
36 *vested in the Director of Consumer Affairs, who may delegate them*
37 *to a bureau chief, subject to the provisions of this section.*

38 (b) *The bureau chief shall be appointed by the Governor, and*
39 *is exempt from the State Civil Service Act pursuant to Part 2*

1 *(commencing with Section 18500) of Division 5 of Title 2 of the*
2 *Government Code.*

3 *(c) Every power granted to, or duty imposed upon, the bureau*
4 *under this chapter shall be exercised and performed in the name*
5 *of the bureau, subject to any conditions and limitations the director*
6 *may prescribe. The bureau chief may delegate any powers or duties*
7 *to a designee.*

8 *(d) (1) The director, in accordance with the State Civil Service*
9 *Act, shall appoint and fix the compensation of personnel as may*
10 *be necessary to carry out this chapter.*

11 *(2) The bureau shall be staffed with a sufficient number of*
12 *employees working at a professional level and having expertise*
13 *in higher education approval and investigation and auditing of*
14 *educational institutions.*

15 *(3) It is the intent of the Legislature that all employees, excluding*
16 *temporary employees, of the former Bureau for Private*
17 *Postsecondary and Vocational Education as of September 30,*
18 *2006, who worked in a regulatory or oversight capacity have the*
19 *opportunity to transfer to their former status, positions, and*
20 *classifications in the Bureau for Private Postsecondary Education.*

21 *(4) Section 19050.9 of the Government Code shall apply to any*
22 *function or the administration of this chapter that is transferred*
23 *from the Department of Consumer Affairs or the Bureau for Private*
24 *Postsecondary and Vocational Education, which ceased to exist*
25 *on July 1, 2007, to the Bureau for Private Postsecondary*
26 *Education. The bureau shall demonstrate compliance with this*
27 *section in the Budget Acts of 2008–09 and 2009–10.*

28 *94876.5. The bureau shall adopt and enforce regulations to*
29 *implement this chapter pursuant to the Administrative Procedure*
30 *Act in Chapter 3.5 (commencing with Section 11340) of Part 1 of*
31 *Division 3 of Title 2 of the Government Code within one year of*
32 *the enactment of this chapter. The bureau may adopt emergency*
33 *regulations that shall become effective immediately pursuant to*
34 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
35 *3 of Title 2 of the Government Code.*

36 *94876.6. The bureau shall, in consultation and coordination*
37 *with the director and the Attorney General, develop and implement*
38 *an enforcement program to carry out this chapter, including a*
39 *plan for investigating complaints filed with the bureau.*

1 94876.7. *The bureau shall adopt a five-year strategic plan by*
2 *December 31, 2010, and update the plan periodically as needed.*

3 94877. *It is the intent of the Legislature that the bureau adopt,*
4 *periodically review, and update, internal quality review and audit*
5 *procedures to ensure that bureau processes are in place to promote*
6 *and achieve full compliance with this chapter.*

7 94879. (a) *To enable the bureau to exercise its powers and to*
8 *perform its duties, the bureau shall adopt, by regulation, a fee*
9 *schedule. The fee schedule shall set forth the fees that institutions,*
10 *and others subject to this chapter, shall pay. The bureau shall not*
11 *set fees that charge more than reasonably necessary to accomplish*
12 *the purposes of this act. It is the intent of the Legislature that*
13 *regulations promulgated under this subdivision be completed by*
14 *August 31, 2008, and be codified in this chapter by December 31,*
15 *2009.*

16 (b) *All fees collected shall be deposited in the Private*
17 *Postsecondary Education Administration Fund. These fees, along*
18 *with any accrued interest, shall be the means of funding the*
19 *implementation of this chapter.*

20 (c) *The fee schedule shall be publicly available.*

21 (d) *The bureau shall use an objective process to assess the costs*
22 *of exercising its powers and performing its duties, and shall use*
23 *this assessment as the basis for constructing the fee schedule.*

24 94880. *The bureau may appoint an advisory committee that*
25 *shall consist of, but not necessarily be limited to, representatives*
26 *of institutions, student representatives, and employers who hire*
27 *students.*

28 94881. *The bureau may conduct workshops to provide*
29 *applicants and institutions information on application processes,*
30 *compliance with this chapter, best practices for providing*
31 *postsecondary educational programs, and other subjects*
32 *concerning postsecondary education.*

33 94882. *The bureau may empanel visiting committees to assist*
34 *in evaluating an institution's application for an approval to*
35 *operate. The members of visiting committees shall serve at no*
36 *expense to the state. The members of visiting committees shall seek*
37 *reimbursement from the bureau for their actual travel and per*
38 *diem expenses incurred during the evaluation. The bureau may*
39 *seek reimbursement from the institution that is the subject of an*
40 *evaluation.*

1 94883. (a) Any individual serving on a visiting committee who
2 provides information to the bureau, or its staff, in the course of
3 evaluating any institution, or who testifies in any administrative
4 hearing arising under this chapter, is entitled to a defense and
5 indemnification in any action arising out of the information or
6 testimony provided as if he or she were a public employee.

7 (b) Any defense and indemnification shall be solely with respect
8 to the action pursuant to Article 4 (commencing with Section 825)
9 of Chapter 1 of Part 2 of, and Part 7 (commencing with Section
10 995) of Division 3.6 of Title 1 of, the Government Code.

11 94884. For all complaints that have reached final disposition,
12 the bureau shall, upon request, make available to members of the
13 public the nature and disposition of complaints against an
14 institution and a summary of the violations.

15 94884.5. The bureau shall establish a program to identify
16 unlicensed institutions and take all appropriate legal action.

17
18 Article 6. Approval to Operate
19

20 94886. If an institution is regulated by another state licensing
21 agency, the institution shall, in addition to approval as specified
22 in this article, obtain and retain the authorization of that agency.

23 94887. (a) The bureau shall promulgate regulations providing
24 the minimum operating standards for institutions. These standards
25 shall reasonably ensure that all of the following occur:

26 (1) The content of each educational program can achieve its
27 stated objective.

28 (2) The facilities, instructional equipment, and materials are
29 sufficient to enable students to achieve the educational program's
30 goals.

31 (3) The institution maintains a withdrawal policy and provides
32 information regarding the calculation of refunds.

33 (4) The directors, administrators, and instructors are properly
34 qualified and have not been convicted of a crime involving the
35 misuse of funds.

36 (5) The faculty has sufficient experience and education and
37 teaching expertise to enable students to achieve the educational
38 program goals and obtain employment.

1 (6) *The institution is financially sound and capable of fulfilling*
2 *its commitments to students and has not filed for bankruptcy within*
3 *the last seven years.*

4 (7) *That, upon satisfactory completion of an educational*
5 *program, the institution gives students a document signifying the*
6 *degree or diploma awarded.*

7 (8) *Adequate records and standard transcripts are maintained*
8 *and are available to students.*

9 (9) *The institution is maintained and operated in compliance*
10 *with applicable ordinances and laws.*

11 (10) *That students receive adequate disclosures, orally and in*
12 *writing, regarding the educational program's completion and*
13 *placement rate, licensure passage rate if applicable, probable*
14 *starting salary range after graduation and that all material facts,*
15 *which would effect the prospective student's decision to enroll in*
16 *the educational program, are disclosed.*

17 94888. *An approval to operate shall be granted only after an*
18 *applicant has presented sufficient evidence to the bureau, and the*
19 *bureau has independently verified the information provided by the*
20 *applicant through site visits or other methods deemed appropriate*
21 *by the bureau, that the applicant has the capacity to satisfy the*
22 *minimum operating standards.*

23 94889. *An approval to operate shall be for a term of four years.*

24 94890. (a) *Notwithstanding Sections 94887, 94888, and 94889,*
25 *the bureau shall grant an institution that is accredited an approval*
26 *to operate by means of its accreditation.*

27 (b) *The term of the approval to operate shall be coterminous*
28 *with the term of accreditation.*

29 (c) *Institutions that are granted an approval to operate by means*
30 *of the institution's accreditation shall file reports with the bureau*
31 *on a form and in a manner prescribed by the bureau and shall*
32 *comply with all applicable requirements of this chapter.*

33 94891. (a) *The bureau shall adopt, by regulation, the process*
34 *and procedures whereby an institution may obtain a renewal of*
35 *an approval to operate.*

36 (b) *To be granted a renewal of an approval to operate, the*
37 *institution shall demonstrate its continued capacity to meet the*
38 *minimum operating standards.*

39 94892. *If a federal agency or a state agency, other than the*
40 *bureau, provides an approval to offer an educational program,*

1 *that agency's educational program approval may satisfy the*
2 *requirements of this article without any further review by the*
3 *bureau. The bureau may incorporate that educational program*
4 *into the institution's approval to operate when the bureau receives*
5 *documentation signifying the conferral of the educational program*
6 *approval by that agency.*

7
8 *Article 7. Substantive Changes to an Approval to Operate*
9

10 *94893. If an institution wishes to make a substantive change*
11 *to its approval to operate, the institution shall receive prior*
12 *authorization from the bureau. If the institution makes the*
13 *substantive change without prior bureau authorization, the*
14 *institution's approval to operate may be suspended or revoked.*

15 *94894. The following changes to an approval to operate may*
16 *be considered substantive changes and require prior authorization:*

17 *(a) A change in educational objectives, including an addition*
18 *of a new diploma or a degree educational program unrelated to*
19 *the approved educational programs offered by the institution. If*
20 *50 percent or less of an educational program is not substantially*
21 *the same as the approved program, it shall be considered an*
22 *unrelated program.*

23 *(b) A change in ownership.*

24 *(c) A shift in control.*

25 *(d) A change in business organization form.*

26 *(e) A change of location.*

27 *(f) A change of name.*

28 *(g) A significant change in the method of instructional delivery.*

29 *(h) An addition of a separate facility more than one mile from*
30 *the main or branch campus.*

31 *94895. (a) The bureau shall promulgate regulations providing*
32 *for the process and procedures whereby an institution that has*
33 *been granted an approval to operate by means of accreditation*
34 *may make a substantive change in accordance with the institution's*
35 *accreditation standards.*

36 *(b) The institution shall notify the bureau of the substantive*
37 *change in a form and in a manner prescribed by the bureau.*

Article 8. *Business Practices*

94897. *An institution subject to this chapter or representative of an institution subject to this chapter shall not do any of the following:*

(a) *Operate in this state a postsecondary educational institution subject to this chapter unless the institution is approved by the bureau.*

(b) *Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, group, or entity is located within or without this state, unless that person, group, or entity observes and is in compliance with the minimum standards set forth in this article.*

(c) *Make or cause to be made any statement relative to the operation of the school that is in any manner untrue or misleading, either by actual statement, omission, or intimation. This shall include, but not be limited to, the following prohibited acts:*

(1) *Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on a diploma.*

(2) *Engage in any false, deceptive, misleading, or unfair act in connection with any matter, including the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a program of instruction, course length, course credits, the withholding of equipment, educational materials, or loan or grant funds from a student, training and instruction, the collection of payments, or job placement.*

(3) *Induce a person to enter into an agreement for a program of instruction by offering to compensate that person to act as the institution's representative in the solicitation, referral, or recruitment of others for enrollment in the institution.*

(4) *Promise or guarantee employment or otherwise overstate the availability of jobs in the local economy upon graduation.*

(5) *Advertise concerning job availability, degree of skill, or length of time required to learn a trade or skill unless the information is accurate and not misleading.*

(6) *Advertise, or indicate in promotional material, without including the fact that the educational programs are delivered by*

1 means of distance education if the educational programs are so
2 delivered.

3 (7) Advertise, or indicate in a promotional material, that
4 resident instruction or programs of study are offered, without
5 including in all advertising or promotional material the location
6 where the training is given or the location of the resident
7 instruction.

8 (8) Advertise, or indicate in promotional material, that the
9 institution is accredited, unless the institution has been accredited
10 by an accrediting agency.

11 (9) Solicit students for enrollment by causing an advertisement
12 to be published in “help wanted” columns in a magazine,
13 newspaper, or publication, or use “blind” advertising that fails
14 to identify the institution.

15 (10) Use a misleading name in any untrue or misleading manner
16 implying any of the following:

17 (A) The institution is affiliated with any government agency,
18 public or private corporation, agency, or association if it is not,
19 in fact, thus affiliated.

20 (B) The institution is a public institution.

21 (C) This institution grants degrees if it in fact, does not grant
22 degrees.

23 (11) In any manner make an untrue or misleading change in,
24 or untrue or misleading statement related to, a test score, grade,
25 record of grades, attendance record, record indicating student
26 completion or employment, or financial information, on any record
27 or document required by this chapter or by the bureau. This shall
28 include the falsification, destruction, or concealment of any record
29 or other item required to be accurately maintained by this chapter
30 or by the bureau. To the extent information is available from past
31 students, the institution shall keep a job log which documents
32 individual placements of those students that completed the
33 educational program. The institution shall also maintain documents
34 which confirm the institution’s completion and placement rates,
35 licensure passage rate, and range of beginning salary for previous
36 graduates of the educational program.

37 (12) Use the terms “approval,” “approved,” “approval to
38 operate,” or “approved to operate” without stating clearly and
39 conspicuously that approval to operate means compliance with
40 state standards as set forth in this chapter and with the standards

1 of the institution's accrediting agency if applicable. If the bureau
2 has granted an institution approval to operate, the institution may
3 indicate that the institution is "licensed" or "licensed to operate,"
4 but may not state or imply either of the following:

5 (A) The institution or its educational programs are endorsed
6 or recommended by the state or by the bureau.

7 (B) The approval to operate indicates that the institution exceeds
8 minimum state standards as set forth in this chapter.

9 (13) Misrepresent to a student or prospective student that the
10 student is or will be qualified, upon completion of a course, for
11 admission to a professional examination under a state occupational
12 licensing provision.

13 (14) Offer to pay or pay any consideration to a student or
14 prospective student to act as a representative of the institution
15 with regard to the solicitation, referral, or recruitment of any
16 person for enrollment in the institution in either of the following:

17 (A) During the 60-day period following the date on which the
18 student began the program.

19 (B) At a subsequent time, if the student has not maintained
20 satisfactory academic progress in acquiring the necessary level
21 of education, training, skill, and experience to obtain employment
22 in the occupation or job title to which the program is represented
23 to lead. The institution shall have the burden of proof to establish
24 that the student has maintained satisfactory academic progress.

25 (d) Direct a representative to perform any unlawful act, to
26 refrain from complaining or reporting unlawful conduct to the
27 bureau or another government agency, or to engage in any unfair
28 act to persuade a student not to complain to the bureau or another
29 government agency.

30 (e) Pay any consideration to a person to induce that person to
31 sign an enrollment agreement for an educational program.

32 (f) Compensate a representative involved in recruitment,
33 enrollment, admissions, student attendance, or sales of equipment
34 to students on the basis of a commission, commission draw, bonus,
35 quota, or other similar method except as specifically allowed under
36 federal law.

37 (g) Require a prospective student to provide personal contact
38 information in order to obtain educational program information,
39 including, but not limited to, tuition and fees, faculty qualifications,

1 *and completion and placement rates, from the institution's Internet*
2 *Web site.*

3 *94897.5. Any institution approved by the bureau shall do all*
4 *of the following:*

5 *(a) Comply with the minimum standards prescribed by this*
6 *chapter, and provide the quality of instruction, faculty, equipment,*
7 *materials, software, supplies, and internships, as represented in*
8 *or substantially equivalent to that represented in the catalogue,*
9 *on the Web site, advertising, enrollment materials, and brochure*
10 *or by the admission's representative in the enrollment process or*
11 *other representative.*

12 *(b) Provide timely and accurate refunds to students, as required*
13 *by this chapter, or fail to satisfy, within 30 days of its issuance, a*
14 *final judgment obtained by a student against the institution.*

15 *(c) Not attempt to confer a degree, diploma, or certificate to a*
16 *student in violation of this chapter.*

17 *(d) Not misrepresent to a student or prospective student that*
18 *the student is or will be qualified, upon completion of a course,*
19 *for admission to a professional examination under a state*
20 *occupational licensing provision.*

21 *(e) Conduct business or instructional services only at a location*
22 *approved by the bureau.*

23 *(f) Comply with any provision of law or regulation governing*
24 *sanitary conditions. However, the bureau may take an action*
25 *against an institution for violation of this subdivision only when*
26 *the bureau is aware of the violation.*

27 *94898. Each institution shall provide the following information*
28 *on its Web site, if applicable, about each program at each site of*
29 *each institution:*

30 *(a) The completion information described in paragraph (1) of*
31 *subdivision (a) of Section 94907.*

32 *(b) The employment information described in paragraph (2) of*
33 *subdivision (a) of Section 94907.*

34 *(c) The salary information described in paragraph (3) of*
35 *subdivision (a) of Section 94907.*

36 *(d) The licensing examination information described in*
37 *paragraph (4) of subdivision (a) of Section 94907.*

38 *(e) Total charges including equipment, software, and the*
39 *quantity and vintage of the machines used, if applicable.*

1 (f) *The status of the institution's approval including any*
2 *disciplinary actions by the bureau against the institution in the*
3 *last three years.*

4 (g) *The names of the faculty members and their prior education*
5 *and qualifications to teach in the program of instruction and the*
6 *date they first began teaching at the institution.*

7 (h) *The average class size and any class size limit.*

8 (i) *The specifics of any offsite training or internship.*

9 (j) *The requirements the prospective students must meet to*
10 *enroll.*

11 (k) *Any bankruptcy filing by the institution.*

12 94899. If an institution offers an educational program in a
13 profession, occupation, trade, or career field that requires
14 licensure in this state, the institution shall have been approved to
15 conduct that educational program by the bureau and any other
16 required agencies, if applicable.

17 94899.5. (a) Institutions that offer short-term programs
18 designed to be completed in one term or four months, whichever
19 is less, may require payment of all tuition and fees on the first day
20 of instruction.

21 (b) For those programs designed to be four months or longer,
22 an institution shall not require more than one term or four months
23 of advance payment of tuition at a time. When 50 percent of the
24 program has been offered, the institution may require full payment.

25 (c) An institution that provides private loan funding shall ensure
26 that the student is not obligated for indebtedness that exceeds the
27 current cost of attendance.

28 94899.6. (a) An institution shall not merge classes unless all
29 of the students have received the same amount of instruction. This
30 subdivision does not prevent the placement of students, who are
31 enrolled in different educational programs, in the same class if
32 that class is part of each of the educational programs and the
33 placement in a merged class will not impair the students' learning
34 of the subject matter of the class.

35 (b) After a student has enrolled in an educational program, the
36 institution shall not do either of the following:

37 (1) Make any unscheduled suspension of any class unless caused
38 by circumstances beyond the institution's control.

39 (2) Change the day or time in which any class is offered to a
40 day when the student is not scheduled to attend the institution or

1 to a time that is outside of the range of time that the student is
2 scheduled to attend the institution on the day for which the change
3 is proposed unless at least 90 percent of the students who are
4 enrolled consent to the change and the institution offers full refunds
5 to the students who do not consent to the change. For the purpose
6 of this paragraph, “range of time” means the period beginning
7 with the time at which the student’s first scheduled class session
8 for the day is set to start and ending with the time the student’s
9 last scheduled class session for that day is set to finish.

10 (c) If an institution enrolls a student in an educational program
11 that is conducted at a specific site at the time of enrollment, the
12 institution shall not convert the educational program to another
13 method of delivery, such as by means of distance education.

14 (d) An institution shall not move the location of class instruction
15 more than 10 miles from the location of instruction at the time of
16 enrollment unless any of the following occur:

17 (1) The institution discloses in writing to each student before
18 enrollment in the educational program that the location of
19 instruction will change after the educational program begins and
20 the address of the new location.

21 (2) The institution applies for, and the bureau grants, approval
22 to change the location. The bureau shall grant the application
23 within 60 days if the bureau, after notice to affected students and
24 an opportunity for them to be heard as prescribed by the bureau,
25 concludes that the change in location would not be unfair or unduly
26 burdensome to students. The bureau may grant approval to change
27 the location subject to reasonable conditions, such as requiring
28 the institution to provide transportation, transportation costs, or
29 refunds to adversely affected students.

30 (3) The institution offers a full refund to students enrolled in
31 the educational program who do not voluntarily consent to the
32 change.

33 (4) An unforeseeable and unavoidable circumstance outside of
34 the control of the institution requires the change in the location
35 of instruction.

36 94899.7. (a) An institution that provides medical training
37 providing for students to interact with health care patients, and
38 that is required to provide criminal background checks, medical
39 blood tests, or drug tests on its students, shall keep complete,
40 accurate, and up-to-date files of these checks and test results.

1 ***(b) Records kept under this section shall be available for review***
2 ***by the medical facility in which the students are obtaining their***
3 ***clinical rotation work, by law enforcement personnel, and by the***
4 ***bureau.***

5 ***(c) An institution shall implement procedures to ensure that***
6 ***records kept under this article are safeguarded and that the privacy***
7 ***rights of students are protected.***

8
9 **Article 9. Recruiters**

10
11 ***94900. An institution's recruiters shall be employees.***

12 ***94901. (a) An institution shall issue identification to each***
13 ***recruiter identifying the recruiter and the institution.***

14 ***(b) The recruiter shall have the issued identification with him***
15 ***or her while recruiting.***

16
17 **Article 10. Enrollment Agreements and Disclosures**
18

19 ***94902. (a) Before a person executes an agreement obligating***
20 ***that person to pay any money to an institution for a program or***
21 ***related equipment, the institution shall:***

22 ***(1) Provide to that person a copy of the enrollment agreement***
23 ***containing, at a minimum, the information required by Section***
24 ***94906.***

25 ***(2) Provide to that person a clear written statement containing***
26 ***its refund policy, a table of the amount of the refund to which the***
27 ***student would be entitled if the student withdrew from the program***
28 ***after completing a period of days or weeks of instruction equivalent***
29 ***to 10 percent, 25 percent, 50 percent, 60 percent, and 75 percent***
30 ***of the program, and a description of the procedures that a student***
31 ***is required to follow to cancel the agreement and obtain a refund.***
32 ***If the institution solicited the student or negotiated the agreement***
33 ***in a language other than English, the statement shall be in that***
34 ***same language. The institution shall also make its refund policy***
35 ***known to currently enrolled students.***

36 ***(3) Provide to that person a written schedule of the total charge***
37 ***for the program, separately itemized into tuition, assessments for***
38 ***the Student Tuition Recovery Fund, the cost of each item of***
39 ***equipment, including textbooks, shop and studio fees, and any***
40 ***other fees the student will pay to the institution in order to complete***

1 the program, with a statement of the purpose for each of these
2 charges. The schedule shall clearly indicate and differentiate all
3 mandatory and optional charges. The schedule shall clearly
4 identify all charges and deposits that are nonrefundable. The
5 schedule shall also contain both of the following:

6 (A) A statement, to be provided by the bureau, specifying that
7 it is a state requirement that a student who pays his or her own
8 tuition, either directly or through a loan, is required to pay a
9 state-imposed fee for the Student Tuition Recovery Fund.

10 (B) A statement, to be provided by the bureau, describing the
11 purpose, operation, and eligibility requirements of the Student
12 Tuition Recovery Fund.

13 (4) If a state board, bureau, department, or agency has
14 established the minimum number of classes or class hours or the
15 minimum criteria of a program necessary for licensure in an
16 occupation and an institution offers a program differing from the
17 state entity's minimum requirements, disclose orally and in writing
18 the state entity's minimum requirements and how the program
19 differs from those requirements.

20 (5) If the institution provides a specific program of study where
21 the students will need program approval by a specific authority
22 or agency for the students to take an examination for certification,
23 licensure, or other similar approval allowing the student to perform
24 services in the field of study, or if the institution knows or
25 reasonably should know that certification, licensure, or other
26 approval, while not necessarily required to perform services in
27 the field of study, is widely requested or required by employers,
28 disclose in writing to the student if the program is not approved.

29 (6) Disclose in writing that, if the student obtains a loan to pay
30 for the course of instruction, the student will have the responsibility
31 to repay the full amount of the loan plus interest, less the amount
32 of any refund.

33 (7) Disclose in writing that, if the student is eligible for a loan
34 guaranteed or reinsured by the state or federal government and
35 the student defaults on the loan, the following may occur:

36 (A) The federal or state government or the loan guarantee
37 agency can take action against the student, including applying any
38 income tax refund to which the person is entitled to reduce the
39 balance owed on the loan.

1 (B) *The student may not be eligible for any other federal*
2 *financial assistance for education at a different institution or for*
3 *government housing assistance until the loan is repaid.*

4 (8) *Disclose in writing that the institution is not a public*
5 *institution.*

6 (9) *Disclose in writing whether or not the institution has filed,*
7 *or has had filed against it, a petition in bankruptcy.*

8 (10) *Provide orally and in writing the information required by*
9 *subdivision (a) of Section 94907.*

10 (11) *A copy of the catalog or brochure as described in Section*
11 *94903.*

12 (b) *The disclosures required by subdivision (a) shall be in*
13 *English unless the solicitation or negotiation leading to the*
14 *agreement for a course of instruction was in a language other than*
15 *English, in which case, the disclosures shall be in that other*
16 *language.*

17 (c) *Notwithstanding any other provision of this section, an*
18 *institution offering a distance learning program need not orally*
19 *make the disclosures required by subdivision (a) in connection*
20 *with that course if the institution did not orally solicit or recruit*
21 *the student for enrollment and the student enrolled by mail or*
22 *electronically.*

23 94903. (a) *An institution shall provide to students and other*
24 *interested persons, prior to enrollment, a catalog or brochure*
25 *containing, at a minimum, all of the following information:*

26 (1) *Descriptions of the instruction provided under each course*
27 *offered by the institution, including the length of programs offered,*
28 *and all of the occupations or job titles, if any, to which the program*
29 *of instruction is represented to lead.*

30 (2) *The number of credit hours or clock hours of instruction or*
31 *training per unit or units required for completion of the educational*
32 *degree or certificate program.*

33 (3) *The attendance, dropout, and leave-of-absence policies.*

34 (4) *The faculty, including their relevant qualifications as of the*
35 *date of the publication of the catalogue or brochure. This shall*
36 *include each degree held by staff and the name and location of the*
37 *institution from which each degree was earned.*

38 (5) *The schedule of tuition payments, fees, and all other charges*
39 *and expenses known to or arranged by the institution and necessary*

1 *for the term of instruction and the completion of the course of*
2 *study.*

3 *(6) The cancellation and refund policies.*

4 *(7) For institutions that participate in federal and state financial*
5 *aid programs, all consumer information that the institution is*
6 *required to disclose to the student.*

7 *(8) A description of a student's rights under the Student Tuition*
8 *Recovery Fund.*

9 *(9) The institution's admissions policies, including the*
10 *institution's policies regarding the acceptance of units of credit*
11 *earned by the student at other institutions or through challenge*
12 *examinations and standardized tests.*

13 *(10) If an institution represents that it provides employment*
14 *placement services, a description of the nature and extent of the*
15 *placement services that indicates when they are available to*
16 *students.*

17 *(11) A list of all transfer agreements or articulation agreements*
18 *between the institution and any other colleges or universities that*
19 *provide for a transfer of credits. If no transfer agreements or*
20 *articulation agreements exist, the institution shall disclose this.*

21 *(b) The institution shall provide the catalog or brochure to any*
22 *person upon request.*

23 *(c) A written contract signed by a student is not enforceable*
24 *unless the student has first received the institution's catalog or*
25 *brochure containing the information required by this section and*
26 *as required by Section 94903.5.*

27 *94903.5. An institution shall not require the signature of a*
28 *person to an agreement obligating that person to pay any money*
29 *to the institution until the person has had at least one business day*
30 *to read and review all of the items required to be provided to that*
31 *person by this article. The prospective student shall be advised,*
32 *orally and in writing, by the institution that he or she should read*
33 *the required documents and ask questions regarding the content*
34 *of the documents that he or she does not understand. Nothing in*
35 *this chapter shall be construed in any manner to relieve a student*
36 *or prospective student from his or her responsibility to read and*
37 *comprehend all disclosures and documents presented by the*
38 *institution.*

1 94903.6. (a) *An institution shall not offer English as a second*
2 *language (ESL) instruction without the prior approval of the*
3 *bureau.*

4 (b) *An institution that offers ESL instruction to a student shall*
5 *not enroll the student in any educational service presented in the*
6 *English language unless the student passes a test indicating that*
7 *he or she has attained adequate proficiency in oral and written*
8 *English to comprehend instruction in English.*

9 (c) *A student who has completed ESL instruction at an institution*
10 *shall not be enrolled in any course of instruction presented in the*
11 *English language at that institution unless the student passes a*
12 *test indicating that he or she has attained adequate proficiency in*
13 *oral and written English to be successfully trained by English*
14 *language instruction to perform tasks associated with the*
15 *occupations or job titles to which the educational program is*
16 *represented to lead.*

17 (d) *If an institution offers ESL instruction to a student to enable*
18 *the student to use already existing knowledge, training, or skills*
19 *in the pursuit of an occupation, the institution shall test the student*
20 *after the student completes the ESL instruction to determine that*
21 *the student has attained adequate proficiency in oral and written*
22 *English to use his or her existing knowledge, training, or skills.*
23 *Before enrolling the student in ESL instruction, the institution shall*
24 *document the nature of the student's existing knowledge, training,*
25 *or skills and that the ESL instruction is necessary to enable the*
26 *student to use that existing knowledge, training, or skills.*

27 (e) *If an institution offers ESL instruction to a student in*
28 *connection with a course of instruction leading to employment in*
29 *any occupation requiring licensure awarded after the passage of*
30 *an examination offered in English, the institution shall test the*
31 *student after the student completes the ESL instruction to determine*
32 *that the student has attained a level of proficiency in English*
33 *reasonably equivalent to the level of English in which the licensure*
34 *examination is offered.*

35 (f) *If the results of a test administered pursuant to subdivision*
36 *(b), (c), (d), or (e) indicate that the student has not attained*
37 *adequate English language proficiency after the completion of*
38 *ESL instruction, the institution shall offer the student additional*
39 *instruction without charge, for a period of up to 50 percent of the*
40 *number of hours of instruction previously offered by the institution*

1 to the student, to enable the student to attain adequate English
2 language proficiency.

3 (g) This section does not apply to grantees funded under Section
4 1672 of Title 29 of the United States Code.

5 (h) The institution, for five years, shall retain an exemplar of
6 each language proficiency test administered pursuant to this
7 section, an exemplar of the answer sheet for each test, a record of
8 the score for each test, the answer sheets or other responses
9 submitted by each person who took each test, and the
10 documentation required by subdivision (d).

11 (i) For the purpose of determining compliance with this article,
12 ESL instruction shall be deemed a course, and a charge shall be
13 deemed to be made for ESL instruction if a student is obligated to
14 make any payment in connection with the educational service,
15 including, but not necessarily limited to, the ESL instruction that
16 is offered by the institution.

17 (j) The tests used by an institution pursuant to this section shall
18 be tests that are approved by the USDE, or tests such as the Test
19 of English as a Foreign Language and the Comprehensive Adult
20 Student Assessment System, that are generally recognized by public
21 and private institutions of higher learning in this state for the
22 evaluation of English language proficiency. An institution shall
23 demonstrate to the bureau that the tests and passing scores that
24 it uses establish that students have acquired the degree of
25 proficiency in oral and written English required by subdivision
26 (b), (c), (d), or (e), whichever is applicable. The required level of
27 proficiency in oral and written English shall not be lower than the
28 sixth grade level.

29 (k) All tests shall be independently administered, without charge
30 to the student and in accordance with the procedures specified by
31 the test publisher. The tests shall not be administered by a previous
32 or current owner, director, consultant, or representative of the
33 institution or by any person who previously had, or currently has,
34 a direct or indirect financial interest in the institution other than
35 the arrangement to administer the test. The bureau shall adopt
36 regulations that contain criteria to ensure independent tests
37 administered including the criteria established by the USDE and
38 set forth on pages 52160 and 52161 of Volume 55 of the Federal
39 Register, dated December 19, 1990.

1 94903.7. *For purposes of compliance with Section 94903.6,*
2 *the bureau shall do the following:*

3 (a) *Promulgate regulations concerning the manner of*
4 *documenting the nature of a student's existing knowledge, training,*
5 *and skill and that ESL instruction offered by the institution is*
6 *necessary to enable the student to use that existing knowledge,*
7 *training, and skill, as prescribed in subdivision (d) of Section*
8 *94903.6. The regulations shall specify all of the following:*

9 (1) *Reliable sources of information, independent of the student*
10 *and the institution, from which documentation of a student's*
11 *existing knowledge, training, and skill shall be obtained.*

12 (2) *Circumstances that must be documented by the institution*
13 *to establish that information from a designated reliable source of*
14 *information cannot reasonably be obtained.*

15 (3) *Alternate acceptable sources of information if designated*
16 *reliable sources are not available.*

17 (4) *The nature of all required types of documentation.*

18 (b) *Develop and distribute instructions, informational materials,*
19 *or forms to assist institutions in developing the documentation*
20 *described in this section. These instructions, materials, and forms*
21 *shall not be subject to review or approval by the Office of*
22 *Administrative Law pursuant to any provision of the Government*
23 *Code.*

24 94904. *Before an ability-to-benefit student may execute an*
25 *enrollment agreement, the institution shall have the student take*
26 *an independently administered examination from the list of*
27 *examinations prescribed by the United States Department of*
28 *Education pursuant to Section 484(d) of the federal Higher*
29 *Education Act of 1965, (20 U.S.C. Sec. 1070a et seq.), as it is,*
30 *from time to time, amended. The student may not enroll unless the*
31 *student achieves a score, as specified by the United States*
32 *Department of Education, demonstrating that the student may*
33 *benefit from the education and training being offered. If the United*
34 *States Department of Education does not have a list of relevant*
35 *examinations that pertain to the intended occupational training,*
36 *the bureau may publish its own list of acceptable exams.*

37 94905. (a) *During the enrollment process, an institution*
38 *offering educational programs designed to lead to positions in a*
39 *profession, occupation, trade, or jobs or job titles requiring*
40 *licensure shall exercise reasonable care to determine that the*

1 student shall reasonably be eligible to obtain licensure in the
2 profession, occupation, trade, or jobs or job titles at the time of
3 the student's graduation for reasons such as age, apparent physical
4 characteristic, or relevant past criminal conviction.

5 (b) During the admission or enrollment process, an institution
6 shall not offer job placement assistance or discuss salaries except
7 as provided for in Section 94907. After a student has completed
8 more than 60 percent of a program, the institution may offer job
9 placement assistance.

10 94905.2. (a) The bureau shall promulgate regulations for
11 purposes of carrying out the intent of this article. These regulations
12 may include, but are not limited to, the following:

13 (1) Recruiting.

14 (2) Advertising, including advertising on the Internet or by
15 electronic mail.

16 (3) Entrance exams and minimum qualifications of students.

17 (4) Transfer of credits.

18 (5) Refund policies.

19 (6) Fees paid by students.

20 (7) Total student costs.

21 (8) Preparing students for careers.

22 (9) Financial aid.

23 (10) Accreditation.

24 (11) Facilities, including satellites.

25 (12) Instructors, including qualifications.

26 (13) Actions by agents.

27 (14) Actions by employees.

28 (15) Record keeping.

29 94906. The enrollment agreement shall include all of the
30 following required terms:

31 (a) On the first page of the enrollment agreement, in at least
32 12-point, boldface type, the following statement:

33
34 "Any questions a student may have regarding this enrollment
35 agreement that have not been satisfactorily answered by the
36 institution may be directed to the Bureau for Private
37 Postsecondary Education at (address), Sacramento, CA (ZIP
38 Code), (Internet Web site address), (telephone and fax
39 numbers)."
40

1 ***(b) The name and description of the educational program,***
2 ***including the total number of credit hours, clock hours, or other***
3 ***increment required to complete the educational program.***

4 ***(c) The name and address of the institution and the address***
5 ***where class sessions shall be held.***

6 ***(d) A schedule of total charges, including a list of any charges***
7 ***that are nonrefundable, clearly identified as nonrefundable***
8 ***charges.***

9 ***(e) In underlined capital letters on the same page of the***
10 ***enrollment agreement in which the student's signature is required,***
11 ***the total charges that the student is obligated, upon enrollment,***
12 ***to pay to the institution for a period of attendance or the entire***
13 ***educational program.***

14 ***(f) A statement that the student is responsible for paying the***
15 ***state assessment amount for the Student Tuition Recovery Fund.***

16 ***(g) A clear and conspicuous statement that the enrollment***
17 ***agreement is legally binding when signed by the student and***
18 ***accepted by the institution.***

19 ***(h) The following statement in at least 12-point, boldface type***
20 ***above the space for the student's signature:***

21
22 ***“My signature below certifies that I have read, understood,***
23 ***and agreed to my rights and responsibilities, and that the***
24 ***institution's cancellation and refund policies have been clearly***
25 ***explained to me.”***

26
27 ***(i) Description of the instruction to be provided, including the***
28 ***length of programs offered, and all of the occupations or job titles,***
29 ***if any, to which the program of instruction is represented to lead.***

30 ***94907. The following disclosures shall be made in writing***
31 ***before execution of the enrollment agreement:***

32 ***(a) A “School Performance Fact Sheet” that discloses the***
33 ***following information:***

34 ***(1) Completion rates, as calculated pursuant to Article 15***
35 ***(commencing with Section 94928).***

36 ***(2) Placement rates, as calculated pursuant to Article 15***
37 ***(commencing with Section 94928), if the institution makes a***
38 ***representation to students regarding placement rates.***

39 ***(3) Starting salaries if the institution makes a claim to***
40 ***prospective students regarding the starting salaries of its***

1 graduates, or the salaries of others in the field. The institution
2 shall also provide to the prospective student the objective sources
3 of the information substantiating the truthfulness of the claim.

4 (4) If the course of instruction is advertised as leading to a
5 particular vocation, occupation, trade, or job in which a licensing
6 exam is required, the institution must specify whether graduation
7 from its program will result in qualifying its students to take the
8 licensing exam, and the passage rates of its graduates for the
9 calendar year preceding the prospective student's enrollment year.

10 (5) If a program is too new to provide data for any of the
11 categories listed in this subdivision, the institution shall state on
12 its fact sheet:

13
14 “This program is new. Therefore, the number of students who
15 graduate, the number of students who are placed, or the
16 starting salary you can earn after finishing the educational
17 program are unknown at this time. Information regarding
18 general salary and placement statistics may be available from
19 government sources or from the institution's research, but it
20 is not the same as actual performance data.”

21
22 (b) A disclosure on transfer of credit in at least 12-point type
23 that reads:

24
25 “NOTICE CONCERNING THE TRANSFERABILITY OF
26 UNITS AND DEGREES EARNED AT OUR SCHOOL:

27 The transferability of credits you earn at (name of institution)
28 is at the complete discretion of an institution to which you may
29 seek to transfer. Acceptance of the (degree, diploma, or
30 certificate) you earn in (name of educational program) is also
31 at the complete discretion of the institution to which you may
32 seek to transfer. For example, if you entered our school as a
33 freshman, you may still be a freshman if you enter another
34 college or university at some time in the future, even though
35 you earned credits here at our school. In addition, if you earn
36 a degree, diploma, or certificate in our (fill in the name of the
37 program) program, it is possible that it may not serve as a
38 basis for obtaining a higher level degree at another college
39 or university. For this reason you should make certain that
40 your attendance at this institution will meet your educational

1 goals. This may include contacting an institution to which you
2 may seek to transfer after attending (name of institution) to
3 determine if your (credits or degree, diploma, or certificate)
4 will transfer.”

5
6 (c) (1) A disclosure with a clear and conspicuous caption:

7
8 “BUYER’S RIGHT TO CANCEL,” under which it is explained
9 that the student has the right to cancel the enrollment
10 agreement and obtain a refund of charges paid through
11 attendance at the first class session, or the seventh day after
12 enrollment, whichever is later.

13
14 (2) The disclosure shall contain the institution’s refund policy,
15 together with examples of the application of the policy, and a
16 statement that, if the student has received federal student financial
17 aid funds, the student is entitled to a refund of moneys not paid
18 from federal student financial aid program funds.

19 (3) The text shall also include a description of the procedures
20 that a student is required to follow to cancel the enrollment
21 agreement or withdraw from the institution and obtain a refund,
22 including the title and address of the institution manager to whom
23 the notice shall be sent or delivered.

24 (d) A statement, provided by the bureau, specifying that it is a
25 state requirement that a student who pays his or her tuition is
26 required to pay a state-imposed assessment for the Student Tuition
27 Recovery Fund. This statement shall also describe the purpose
28 and operation of the Student Tuition Recovery Fund and the
29 requirements for filing a claim against the Student Tuition
30 Recovery Fund.

31 (e) A statement specifying that, if the student obtains a loan to
32 pay for an educational program, the student will have the
33 responsibility to repay the full amount of the loan plus interest,
34 less the amount of any refund applied to the balance due on loan.

35 (f) A statement specifying that, if the student is eligible for a
36 loan guaranteed by the federal or state government and the student
37 defaults on the loan, both of the following may occur:

38 (1) The federal or state government or a loan guarantee agency
39 may take action against the student, including applying any income

1 *tax refund to which the person is entitled to reduce the balance*
2 *owed on the loan.*

3 *(2) The student may not be eligible for any other federal student*
4 *financial aid at another institution or other government assistance*
5 *until the loan is repaid.*

6 *(g) A statement specifying that the institution is not a public*
7 *institution.*

8 *(h) A statement specifying whether the institution has a pending*
9 *petition in bankruptcy or has had a petition in bankruptcy filed*
10 *against it.*

11 *94908. Each disclosure in Section 94907 shall be individually*
12 *acknowledged by a student's initials or signature, and by the*
13 *signature of a person representing the institution on a single form*
14 *acknowledging delivery of the individually identified disclosures.*

15 *94909. A student may not waive any required term, or receipt*
16 *of any disclosure, required by this article.*

17 *94910. An enrollment agreement shall be written in language*
18 *that is easily understood. If English is not a student's primary*
19 *language, and the student is unable to understand the terms and*
20 *conditions of the enrollment agreement, the student shall be*
21 *provided a clear explanation of the terms and conditions and all*
22 *cancellation and refund policies in his or her primary language.*

23 *94911. If the recruitment leading to enrollment was conducted*
24 *in a language other than English, the enrollment agreement,*
25 *disclosures, and statements shall be in that language.*

26 *94912. An enrollment agreement shall become operative when*
27 *the student attends the first class session.*

28 *94913. An enrollment agreement shall not contain a provision*
29 *that requires a student to invoke an internal institutional dispute*
30 *procedure before enforcing any contractual or other legal rights*
31 *or remedies. This does not preclude inclusion of a term in the*
32 *enrollment agreement requiring binding arbitration as authorized*
33 *under the Federal Arbitration Act pursuant to Title 9 of the United*
34 *States Code or other alternative dispute resolution procedures.*

35 *94914. An enrollment agreement, note, or other instrument of*
36 *indebtedness, or contract relating to payment for educational*
37 *services is not enforceable by an institution within or outside this*
38 *state governed by this chapter unless, at the time of execution of*
39 *that note, other instrument of indebtedness, enrollment agreement,*

1 *or contract, the institution has a valid approval to operate pursuant*
2 *to this chapter.*

3
4 *Article 10.5. Student Protections and Private Right of Action*

5
6 *94914.3. The bureau shall promulgate regulations for the*
7 *following:*

8 *(a) To define the following terms for purposes of paragraph (1)*
9 *of subdivision (a) of Section 94914.5:*

10 *(1) Job, job title, vocation, occupation, or trade.*

11 *(2) "Evidence" of employment including procedures for the*
12 *institution to protect the privacy of the student.*

13 *(3) Entry level position.*

14 *(b) To define "alternative manner," for purposes of paragraph*
15 *(2) of subdivision (a) of Section 94914.5. This shall be a manner*
16 *other than federal guidelines, set forth under Title IV of the Higher*
17 *Education Act (20 U.S.C. Sec. 1001 et seq.) and shall include*
18 *circumstances for which this alternative manner may be utilized.*

19 *(c) To define "objective source," for purposes of paragraph (7)*
20 *of subdivision (a) of Section 94914.5. This shall include, but not*
21 *be limited to, the California Employment Development Department*
22 *and the United States Department of Labor Bureau of Labor*
23 *Statistics.*

24 *94914.5. (a) At or prior to enrollment, each prospective student*
25 *shall receive, in writing, all of the following disclosures, if*
26 *applicable:*

27 *(1) Job Placement Rates of Graduates -- Each institution*
28 *offering a degree or diploma program designed to prepare students*
29 *for a particular job, job title, vocation, occupation, or trade, shall*
30 *provide each prospective student the number and percentage of*
31 *students who begin the program and secure employment in the*
32 *field for which they were trained. To the extent information is*
33 *available to the institution, this rate shall be calculated within a*
34 *margin of error of ± 5 percent. In calculating this rate, the*
35 *institution shall consider as not having obtained employment, any*
36 *graduate for whom the institution does not possess evidence,*
37 *documented in his or her file, showing that he or she has obtained*
38 *employment in the occupation for which the program is offered.*
39 *A student is considered "placed" only if a student is employed in*
40 *a paid position within six months of graduation. The position must*

1 *be in the job, job title, vocation, occupation, or trade that the*
2 *course of instruction or educational program was represented to*
3 *lead. Additionally, a position may qualify as a placement only if*
4 *the majority of the former student's typical work week requires*
5 *the utilization of knowledge acquired as a direct result of attending*
6 *the institution. Entry level positions which do not require a degree*
7 *beyond the high school level do not qualify as placements. A*
8 *full-time placement averages a minimum of 35 hours per week. A*
9 *part-time placement averages a minimum of 20 hours per week.*

10 (2) *Graduate Completion Rates -- The institutions shall provide*
11 *prospective students with the graduation completion rates. The*
12 *manner in which the institution computes and discloses its graduate*
13 *completion rates must comport with the Federal guidelines, set*
14 *forth under Title IV of the Higher Education Act (20 U.S.C. Sec.*
15 *1001 et seq.) or other manner authorized by the bureau.*

16 (3) *Costs of Attendance -- The institution shall provide a current*
17 *schedule of all student charges associated with the cost of*
18 *attendance, including a statement of the purpose for those charges,*
19 *to all current and prospective students. The schedule shall specify*
20 *the total costs of attendance including tuition, fees, equipment*
21 *costs, housing and transportation arranged by the institution,*
22 *books, necessary supplies, materials, shop and studio fees, and*
23 *any other fees and expenses that the student is likely to incur in*
24 *the course of his or her studies. The schedule shall clearly and*
25 *conspicuously identify all charges and deposits that are*
26 *nonrefundable. The institution shall include a clear statement*
27 *regarding the school's refund policy, including whether or not the*
28 *institution has a refund policy and the applications of that policy.*

29 (4) *Transferability Disclosure -- An institution shall provide to*
30 *each prospective student for a degree, diploma, or certificate*
31 *program, a statement on a separate piece of paper in at least*
32 *12-point type that contains the following statement:*

33
34 *“NOTICE CONCERNING THE TRANSFERABILITY OF*
35 *UNITS AND DEGREES EARNED AT OUR SCHOOL:*

36 *The transferability of credits you earn at (name of institution)*
37 *is at the complete discretion of an institution to which you may*
38 *seek to transfer. Acceptance of the (degree, diploma, or*
39 *certificate) you earn in (name of educational program) is also*
40 *at the complete discretion of the institution to which you may*

1 seek to transfer. For example, if you entered our school as a
2 freshman, you may still be a freshman if you enter another
3 college or university at some time in the future, even though
4 you earned credits here at our school. In addition, if you earn
5 a degree, diploma, or certificate in our (fill in the name of the
6 program) program, it is possible that it may not serve as a
7 basis for obtaining a higher level degree at another college
8 or university. For this reason you should make certain that
9 your attendance at this institution will meet your educational
10 goals. This may include contacting an institution to which you
11 may seek to transfer after attending (name of institution) to
12 determine if your (credits or degree, diploma, or certificate)
13 will transfer.”

14
15 (5) *Financial Aid Disclosure -- Prospective students are to be*
16 *provided with complete information, describing the educational*
17 *loans and financial aid available to the student, including, but not*
18 *limited to, the amount of total periodic loan payments for all loans;*
19 *the annual percentage rate on each educational loan; the dollar*
20 *amount of the monthly payments while the student is enrolled in*
21 *school; the dollar amount of monthly payments after the student*
22 *graduates from school. This paragraph applies only to educational*
23 *loans and financial aid arranged by the institution based on*
24 *information from the loan providers and government entities.*

25 (6) *Passage Rates and Licensing Exams -- If the course of*
26 *instruction is advertised as leading to a particular career field in*
27 *which a licensing exam is required, the institution must specify*
28 *whether or not its program will result in qualifying its students to*
29 *take the licensing exam, and the passage rates of its graduates for*
30 *the most recent year publicly available to the institution. To the*
31 *extent information is available to the institution, this rate shall be*
32 *calculated within a margin of error of ± 5 percent.*

33 (7) *Salaries of Graduates -- If an institution makes any claim*
34 *to prospective students regarding the salaries of its graduates, or*
35 *the salaries of others in the field, the institution shall also provide*
36 *to the prospective student the objective sources of the information*
37 *substantiating the truthfulness of the claim.*

38 (b) *The written disclosures shall be signed and dated by the*
39 *prospective student and shall reflect information that the institution*
40 *knows or should have known on the date signed. If the institution*

1 *solicited the student or negotiated the agreement for a course of*
2 *instruction in a language other than English, the written*
3 *disclosures to the student shall be in that same language. An*
4 *original of each signed disclosure shall be retained in the student's*
5 *file and the prospective student shall be provided with a copy.*

6 *(c) Any student or former student of an institution is entitled to*
7 *bring a civil action against the institution, alleging that the*
8 *institution, or a representative or agent of the institution, violated*
9 *subdivision (a) or (b) of this section by doing either of the*
10 *following:*

11 *(1) Omitting any of the required disclosures or misrepresenting*
12 *the contents of any disclosures.*

13 *(2) Misleading students regarding the information contained*
14 *within the disclosure.*

15 *(d) (1) If the institution is found to have violated subdivision*
16 *(a) or (b), the institution shall refund the entire amount of tuition*
17 *paid by the student and on behalf of the student.*

18 *(2) If the institution is found to have violated subdivision (a) or*
19 *(b), in addition to the remedy provided in paragraph (1), a court*
20 *may award any or all of the following:*

21 *(A) Compensatory damages.*

22 *(B) A civil penalty of up to two times the amount of the damages*
23 *sustained by the student.*

24 *(C) Equitable relief.*

25 *(D) Other relief a court deems proper.*

26 *(3) A student prevailing in an action under this section is entitled*
27 *to the award of reasonable attorney's fees and costs.*

28 *(e) Any student bringing a claim under this section must do so*
29 *within three years from the date of the discovery of the violation.*

30 *(f) Students bringing claims under this section shall not be*
31 *required to observe any grievance procedure prior to filing a civil*
32 *action. However, a student may elect to participate in a grievance*
33 *procedure prior to filing a civil action. Students shall not be*
34 *compelled to arbitrate these claims, even if a student previously*
35 *signed a contract which included a provision to arbitrate.*

36 *(g) If a student commences an action or asserts any claim in an*
37 *existing action for recovery on behalf of a class of persons, the*
38 *student shall notify the bureau within 30 days of filing the action*
39 *by providing the bureau with a copy of the complaint.*

1 (h) *The remedies under this section supplement but do not*
2 *supplant any other remedies available to a student under the law.*

3 94914.7. *This article applies to the following:*

4 (a) *All institutions subject to this chapter.*

5 (b) (1) *Any institution exempt under paragraph (7) of*
6 *subdivision (a) of Section 94874.*

7 (2) *This subdivision shall become inoperative if the Director of*
8 *Consumer Affairs certifies, and the Attorney General affirms, that*
9 *a court of competent jurisdiction has issued a final ruling that the*
10 *exemption under paragraph (7) of subdivision (a) of Section 94874*
11 *is unconstitutional. A final ruling shall not include any case that*
12 *is subject to appeal or is under appeal. A certification under this*
13 *paragraph shall include an effective date.*

14
15 Article 11. *Consumer Loans to Students*

16
17 94916. (a) (1) *An institution extending credit or lending money*
18 *to a person for tuition, fees, or other charges for educational*
19 *services to be rendered or furnished shall cause any note,*
20 *instrument, or other evidence of indebtedness taken in connection*
21 *with that loan or extension of that credit to be conspicuously*
22 *marked on the face thereof with the following notice:*

23
24 “NOTICE REGARDING REFUNDS
25 YOU MAY ASSERT AGAINST THE HOLDER OF THE
26 PROMISSORY NOTE YOU SIGNED IN ORDER TO
27 FINANCE THE COST OF INSTRUCTION ALL OF THE
28 CLAIMS AND DEFENSES THAT YOU COULD ASSERT
29 AGAINST THIS INSTITUTION, UP TO THE AMOUNT YOU
30 HAVE ALREADY PAID UNDER THE PROMISSORY NOTE.”

31
32 (2) *An institution that fails to comply with paragraph (1) shall*
33 *be liable for any damage or loss suffered or incurred by any*
34 *subsequent assignee, transferee, or holder of that evidence of*
35 *indebtedness on account of the absence of that notification.*

36 (b) *Notwithstanding the presence or absence of the notification*
37 *required in subdivision (a), and notwithstanding an agreement in*
38 *which a student waives the right to assert a claim or defense, an*
39 *institution making a loan or extending credit and the transferee,*
40 *assignee, or holder of that evidence of indebtedness, are subject*

1 to all defenses and claims that could be asserted against the
2 institution that was to render or furnish those educational services
3 by a party to that evidence of indebtedness or by the person to
4 whom these educational services were to be rendered or furnished
5 up to the amount remaining to be paid thereon.

6 (c) An institution that participates in a federal student assistance
7 program and that complies with the financial disclosure and
8 notification requirements for those programs is in compliance with
9 the standards prescribed by this section.

10 94918. In making consumer loans to students, an institution
11 shall also comply with the requirements of the Federal Truth in
12 Lending Act pursuant to Title 15 of the United States Code.

13 94918.5. An institution shall establish specific written standards
14 for student admissions for each educational program. These
15 standards shall be related to the particular educational program.

16
17 Article 12. Cancellations, Withdrawals, and Refunds

18
19 94919. (a) A student shall have the right to cancel an
20 agreement for a program of instruction, including any equipment,
21 as follows:

22 (1) For degree programs, the student shall have the right to
23 cancel prior to or on the first day of instruction.

24 (2) For nondegree programs in excess of 50 days, the student
25 shall have the right to cancel until midnight of the fifth business
26 day after the day on which the student did any of the following,
27 whichever is later:

28 (A) Attended the first class of the program of instruction that
29 is the subject of the agreement.

30 (B) Received a copy of the notice of cancellation as provided
31 in Section 94921.5.

32 (C) Received a copy of the enrollment agreement and the
33 disclosures as required by Section 94907.

34 (3) For nondegree programs of 50 or fewer days, the student
35 shall have the right to cancel the agreement until midnight of the
36 date that is one business day for every 10 days of scheduled
37 program length, rounded up for any fractional increments thereof.

38 (4) For distance learning programs, if the first lesson is sent to
39 the student by mail, the institution shall send it by first-class mail,
40 postage prepaid, documented by a certificate of mailing, and the

1 *student shall have a right to cancel until midnight of the eighth*
2 *business day after the first lesson was mailed. If the first lesson is*
3 *sent to the student electronically, the student shall have the right*
4 *to cancel until midnight of the third business day after the first*
5 *lesson was electronically received by the student.*

6 *(b) Cancellation shall occur when the student gives written*
7 *notice of cancellation to the institution at the address specified in*
8 *the agreement.*

9 *(c) The written notice of cancellation, if given by mail, is*
10 *effective when deposited in the mail properly addressed with*
11 *postage prepaid.*

12 *(d) The written notice of cancellation need not take a particular*
13 *form and, however expressed, is effective if it indicates the student's*
14 *desire not to be bound by the agreement.*

15 *(e) Except as provided in subdivision (g) of Section 94920.1, if*
16 *the student cancels the agreement, the institution shall refund,*
17 *without penalty or obligation, 100 percent of the amount paid to*
18 *that institution by or on behalf of the student, less a reasonable*
19 *deposit or application fee not to exceed one hundred fifty dollars*
20 *(\$150), within 10 days after the institution receives notice of the*
21 *cancellation.*

22 *(f) If the institution gave the student any equipment, the student*
23 *shall return the equipment within 10 days following the date of*
24 *the notice of cancellation. If the student fails to return the*
25 *equipment within this 10-day period, the institution may retain*
26 *that portion of the consideration paid by the student equal to the*
27 *documented cost to the institution of the equipment, and shall*
28 *refund the portion of the consideration exceeding the documented*
29 *cost to the institution of the equipment within 10 days after the*
30 *period within which the student is required to return the equipment.*
31 *The student may retain the equipment without further obligation*
32 *to pay for it.*

33 *94920. (a) If a student withdraws from a program of*
34 *instruction after the applicable period described in Section 94919,*
35 *the institution shall remit a refund as provided in Section 94920.1*
36 *within 30 days following the student's withdrawal.*

37 *(b) If any portion of the tuition was paid from the proceeds of*
38 *a loan, the refund shall be sent to the lender or, if appropriate, to*
39 *the state or federal agency that guaranteed or reinsured the loan.*
40 *Any amount of the refund in excess of the unpaid balance of the*

1 loan shall be first used to repay any student financial aid program
2 from which the student received benefits, in proportion to the
3 amount of the benefits received, and any remaining amount shall
4 be paid to the student.

5 (c) Within 10 days of the day on which the refund is made, the
6 institution shall notify the student in writing of the date on which
7 the refund was made, the amount of the refund, the method of
8 calculating the refund, and the name and address of the entity to
9 which the refund was sent. The following statement shall be placed
10 at the top of the notice in at least 10-point boldface type: "This
11 Notice is Important. Keep It For Your Records."

12 (d) Except for subdivision (a), this section shall not apply to a
13 student if both of the following occur:

14 (1) All of that student's tuition and fees are paid by a third-party
15 organization, such as a Job Training Partnership Act agency, a
16 regional occupational program or regional occupational center,
17 a private industry council, or a vocational rehabilitation program,
18 if the student is not obligated to repay the third-party organization
19 or does not lose time-limited educational benefits.

20 (2) The third-party organization and the institution have a
21 written agreement, entered into on or before the date the student
22 enrolls, that no refund will be due to the student if the student
23 withdraws prior to completion. The institution shall provide a copy
24 of the written agreement to the bureau. The institution shall
25 disclose to any student whose refund rights are affected by this
26 agreement, in all disclosures required to be given to the student
27 by this chapter, that the student is not entitled to a refund. It is the
28 intent of the Legislature that this paragraph not apply to any
29 student whose tuition and fees are paid with funds provided to the
30 third-party organization for the student's benefit as part of any
31 program that provides funds for training welfare recipients or that
32 is related to welfare reform.

33 94920.1. (a) An institution shall refund the unused portion of
34 tuition fees and other charges if a student does not register for the
35 period of attendance, withdraws at any time prior to completion
36 of the course, or otherwise fails to complete the period of
37 enrollment as provided in this section.

38 (b) For students enrolled in a degree program, the institution
39 shall provide a pro rata refund to students who completed 60
40 percent or less of the course of instruction.

1 (c) Except as provided in subdivision (d), the refund shall be
2 calculated as follows:

3 (1) Deduct a registration fee not to exceed one hundred fifty
4 dollars (\$150) from the total tuition charge.

5 (2) Divide this figure by the number of hours in the program.

6 (3) The quotient derived in paragraph (2) is the hourly charge
7 for the program.

8 (4) The amount owed by the student for the purposes of
9 calculating a refund is derived by multiplying the total hours
10 attended by the hourly charge for instruction and adding to that
11 product the amount of the registration fee specified in paragraph
12 (1).

13 (5) The refund shall be any amount in excess of the figure
14 derived in paragraph (4) that was paid by the student.

15 (6) The refund amount shall be adjusted as provided in
16 subdivision (f) or (g) for equipment and as provided in subdivision
17 (h) for resident instruction, if applicable.

18 (d) For an educational service offered by distance learning, the
19 refund shall be calculated as follows:

20 (1) Deduct a registration fee not to exceed one hundred dollars
21 (\$100) from the total tuition charge.

22 (2) Divide this figure by the number of lessons for which the
23 student has paid, but which the student has not completed and
24 submitted.

25 (3) The quotient derived in paragraph (2) is the per lesson
26 charge.

27 (4) The amount owed by the student for the purposes of
28 calculating a refund is derived by multiplying the total number of
29 lessons for which the student has paid by the per lesson charge
30 calculated in paragraph (3) and adding to that product the amount
31 of the registration fee specified in paragraph (1).

32 (5) The refund shall be any amount in excess of the figure
33 derived in paragraph (4) that was paid by the student.

34 (6) For the purposes of this section, an institution may specify
35 in an enrollment agreement the time limits within which a student
36 is required to complete the requirements of a distance learning
37 program.

38 (e) Notwithstanding any provision in any agreement, all of the
39 following shall apply:

1 (1) All amounts that the student has paid, however denominated,
2 shall be deemed to have been paid for instruction, unless the
3 student has paid a specific charge for equipment set forth in the
4 agreement for the program of instruction.

5 (2) In the case of an educational service offered by distance
6 learning, all amounts that the student has paid, however
7 denominated, shall be deemed to have been paid for lessons unless
8 the student has paid a specific charge for equipment or resident
9 instruction as set forth in the agreement for the educational service.

10 (3) The total number of hours necessary to complete each lesson
11 of distance learning instruction shall be substantially equivalent
12 to each other lesson unless otherwise permitted by the bureau.

13 (4) An equal charge shall be deemed to have been made for
14 each hour of instruction or each lesson.

15 (f) If the institution specifies in the agreement a separate charge
16 for equipment that the student actually obtains and the student
17 returns that equipment in good condition, allowing for reasonable
18 wear and tear, within 30 days following the date of the student's
19 withdrawal, the institution shall refund the charge for the
20 equipment paid by the student. If the student fails to return that
21 equipment in good condition, allowing for reasonable wear and
22 tear, within 30 days following the date of the student's withdrawal,
23 the institution may offset against the refund calculated under
24 subdivision (a) the documented cost to the institution of that
25 equipment. The student shall be liable for the amount, if any, by
26 which the documented cost for equipment exceeds the refund
27 amount calculated under subdivision (a). For the purposes of this
28 subdivision, equipment cannot be returned in good condition if
29 the equipment cannot be reused because of clearly recognized
30 health and sanitary reasons and this fact is clearly and
31 conspicuously disclosed in the agreement.

32 (g) If the institution specifies in the agreement a separate charge
33 for equipment, which the student has not obtained at the time of
34 the student's withdrawal, the refund also shall include the amount
35 paid by the student that is allocable to that equipment.

36 (h) If an agreement for educational service offered by distance
37 learning includes a separate charge for resident instruction, which
38 the student has not begun at the time of the student's withdrawal,
39 the institution shall refund the charge for the resident instruction
40 paid by the student. If the student withdraws from the educational

1 service after beginning the resident instruction, the institution
2 shall pay a refund equal to the amount the student paid for the
3 resident instruction multiplied by a fraction, the numerator of
4 which is the number of hours of resident instruction which the
5 student has not received but for which the student has paid, and
6 the denominator of which is the total number of hours of resident
7 instruction for which the student has paid.

8 (i) For the purpose of determining a refund under this section,
9 a student shall be deemed to have withdrawn from a program of
10 instruction when any of the following occurs:

11 (1) The student notifies the institution of the student's
12 withdrawal or of the date of the student's withdrawal, whichever
13 is later.

14 (2) The institution terminates the student's enrollment as
15 provided in the agreement.

16 (3) The student has failed to attend classes for a three-week
17 period. For the purpose of determining the amount of the refund,
18 the date of the student's withdrawal shall be deemed the last date
19 of recorded attendance. For the purposes of determining when the
20 refund must be paid pursuant to subdivision (a) of Section 94940,
21 the student shall be deemed to have withdrawn at the end of the
22 three-week period.

23 (4) The student has failed to submit three consecutive lessons,
24 or has failed to submit a completed lesson within 60 days of its
25 due date as set by an educational service offered by distance
26 learning. For the purposes of this paragraph, the date of the
27 student's withdrawal shall be deemed to be the date on which the
28 student submitted the last completed lesson.

29 (j) An institution shall have the burden of proof to establish the
30 validity of the amount of every refund. The institution shall
31 maintain records for five years of all the evidence on which the
32 institution relies for the determination of refund amounts.

33 94921. A degree granting institution offering an educational
34 program for which the refund calculations set forth in this article
35 cannot be utilized because of the unique way in which the program
36 is structured may petition the bureau for an alternative method of
37 calculating tuition refunds. The bureau shall determine the details
38 of an alternative refund policy, by regulation, and shall take into
39 consideration the contract for educational services entered into
40 with the student, as well as the length and character of the

1 *educational program in determining standards for refunds. The*
2 *decision of the bureau shall be final.*

3 *94921.1. (a) All institutions subject to the approval*
4 *requirements of this chapter shall identify each student who makes*
5 *an application for, and receives, loan moneys other than loans*
6 *provided under a governmental student financial aid program, to*
7 *the extent that this information is reasonably available to the*
8 *institution, including, but not necessarily limited to, students for*
9 *whom the institution makes a referral to a lender, students for*
10 *whom the institution acts as lender, students receiving loan*
11 *proceeds from a lending entity in which the institution has a*
12 *financial interest, or students for whom loan proceeds are received*
13 *by the institution on behalf of the student.*

14 *(b) The institution shall ensure, either by providing the service*
15 *or by documenting that the service has been provided by the*
16 *lending entity, that each student has received information*
17 *regarding the student's rights and obligations related to loans at*
18 *the time of signing a promissory note, and at the end of a student's*
19 *academic program. If a student leaves a program prior to*
20 *completion of the program, the institution shall make an attempt*
21 *to contact that student at the last known student address to ensure*
22 *the student has received information from the lending entity or to*
23 *provide information to the student itself, and shall keep evidence*
24 *of its attempt to do so.*

25 *(c) (1) An institution shall disclose to the student any formal*
26 *or informal relationship between the institution and the lender,*
27 *including, but not necessarily limited to, an agreement between*
28 *the institution and lender to make referrals, to place that lender*
29 *in a preferred status for students of that institution, or to provide*
30 *any benefit, financial or otherwise, to the institution as a result of*
31 *referral or student borrowing, and shall disclose any financial*
32 *interest of the institution in the lending entity.*

33 *(2) Disclosure under this subdivision shall be made, prior to*
34 *the loan proceeds being received by the student, whenever the*
35 *institution has a reasonable opportunity to know of the student's*
36 *application for the loan.*

37 *(3) Disclosure under this subdivision shall be included in the*
38 *information and materials provided to the student at the time of*
39 *negotiation of the enrollment contract, whenever the institution*

1 *has a reasonable opportunity to know of the student's application*
2 *for that loan.*

3 *(4) A gift or other consideration of below one hundred dollars*
4 *(\$100) in total value exchanged between an institution and a lender*
5 *in a calendar year shall not be considered to create a financial*
6 *relationship.*

7 *(d) The institution shall keep sufficient records to demonstrate*
8 *compliance with this section.*

9 *(e) If it is determined that an institution failed to disclose a*
10 *financial relationship with, or a financial interest in, a lending*
11 *entity that provided a loan to a student at that institution as*
12 *required by this chapter, that loan shall be considered paid in full.*

13 *(f) Where federal statutes and regulations conflict with or exceed*
14 *the disclosure provisions of this chapter, the federal statutes and*
15 *regulations shall take precedence for institutions subject to*
16 *approval under this chapter that are eligible to participate in*
17 *student financial aid programs under Title IV of the federal Higher*
18 *Education Act of 1965.*

19 *94921.2. No private postsecondary institution subject to this*
20 *chapter and providing instruction in California shall design its*
21 *Internet Web site in a manner that requires a student to register,*
22 *identify themselves, provide electronic or other personal contact*
23 *information, or agree to be contacted by an admission*
24 *representative, in order to access information regarding the*
25 *institution's program or programs, cost of attendance, student*
26 *financial aid information, accreditation or approval status, faculty*
27 *qualifications, facilities, location, admissions policies, or any item*
28 *required under the consumer information requirements of Title IV*
29 *of the federal Higher Education Act of 1965.*

30 *94921.5. (a) When a person executes an agreement obligating*
31 *that person to pay any money to an institution for a course program*
32 *of instruction or related equipment, the institution shall provide*
33 *the person with a document containing only the following notice:*
34

35
36 *"NOTICE OF CANCELLATION, REFUND AND OTHER RIGHTS"*

37 *"1. You may cancel your contract for school, without any penalty or*
38 *obligations prior to or on (insert 'the fifth business day following your*
39 *first class session' or 'the first day of class,' whichever is applicable) as*
40 *described in the Notice of Cancellation form that will be given to you*

1 (insert ‘on your first day of class’ or ‘with the first lesson in a distance
2 learning program,’ whichever is applicable).

3 “A different cancellation policy applies for distance learning programs.
4 Read the Notice of Cancellation form for an explanation of your
5 cancellation rights and responsibilities. If you have lost your Notice of
6 Cancellation form, ask the school for another form.

7 “2. After the end of the cancellation period, you also have the right to stop
8 school at any time, and you have the right to receive a refund for the part
9 of the course not taken. Your refund rights are described in the contract.
10 If you have lost your contract, ask the school for a description of the refund
11 policy.

12 “3. If the school closes before you graduate, you may be entitled to a
13 refund. Contact the Bureau for Private Postsecondary Education at the
14 address and telephone number printed below for information.

15 “4. If you have any complaints, questions, or problems that you cannot
16 work out with the school, write or call the Bureau for Private
17 Postsecondary Education:

18 _____
19
20 (insert mailing address, e-mail address, and telephone number of the
21 Bureau for Private Postsecondary Education)”
22
23

24 (b) Except as otherwise provided in subdivision (a), the notice
25 required by subdivision (a) shall be printed in 10-point type in
26 English and, if any solicitation or negotiation leading to the
27 agreement for a course of instruction was in a language other than
28 English, in that other language.

29 (c) A copy of the notice, in each language in which the notice
30 was printed pursuant to subdivision (b), shall be posted at all times
31 in a conspicuous place at the main entrance of the institution, in
32 each admissions office, and in each room used for instruction. The
33 bureau may prescribe the size and format of the posted notice.
34 This subdivision does not apply to an institution that exclusively
35 offers distance learning programs.

36 (d) Upon request, the institution shall provide a student with a
37 copy of a Notice of Cancellation form, a written description of the
38 student’s refund rights, a copy of the contract executed by the
39 student, a copy of documents relating to loans or grants for the
40 student, and a copy of any document executed by the student.

1 (e) The bureau may provide for the inclusion of additional
2 information in the notice set forth in subdivision (a).

3 94921.7. An institution shall provide the student with two
4 cancellation forms at the first class attended by the student or with
5 the first lesson in a distance learning course submitted by the
6 student. The form shall be completed in duplicate, captioned
7 “Notice of Cancellation,” and shall contain the following
8 statement:
9

10 “Notice of Cancellation

11 _____
12 (Date)

13 (Enter date of first class, date first lesson received, or date first lesson was
14 mailed, whichever is applicable)

15 “You may cancel this contract for school, without any penalty or obligation
16 by the date stated below.

17 “If you cancel, any payment you have made and any negotiable instrument
18 signed by you shall be returned to you within 30 days following the school’s
19 receipt of your cancellation notice.

20 “But, if the school gave you any equipment, you must return the equipment
21 within 30 days of the date you signed a cancellation notice. If you do not
22 return the equipment within this 30-day period, the school may keep an
23 amount out of what you paid that equals the cost of the equipment.

24 “The total amount charged for each item of equipment shall be separately
25 stated. The amount charged for each item of equipment shall not exceed the
26 equipment’s fair market value. The school shall have the burden of proof
27 to establish the equipment’s fair market value. The school is required to
28 refund any amount over that as provided above, and you may keep the
29 equipment.

30 “To cancel the contract for school, mail or deliver a signed and dated copy
31 of this cancellation notice, or any other written notice to:

32 _____, at

33 _____.
34 (name of institution) (address of institution)

35 “NOT LATER THAN _____

36 (Enter midnight of the date applicable under Section 94939)

37 “I cancel the contract for school.

38 _____
39 (Date)
40 _____

1 (Student's signature)

2 "REMEMBER, YOU MUST CANCEL IN WRITING. You do not have the
3 right to cancel by just telephoning the school or by not coming to class.

4 "If you have any complaints, questions, or problems which you cannot work
5 out with the school, write or call the Bureau for Private Postsecondary
6 Education:

7 _____
8 _____
9 (insert mailing address, e-mail address, and telephone number of the Bureau
10 for Private Postsecondary Education)"

11
12 94922. A student may not waive any provision of this article.

13
14 *Article 13. Student Tuition Recovery Fund*

15
16 94923. The Student Tuition Recovery Fund is continued in
17 existence. All assessments and fees collected pursuant to this article
18 shall be credited to this fund, along with any interest on the
19 moneys, for the administration of this article. Notwithstanding
20 Section 13340 of the Government Code, the moneys in the fund
21 are continuously appropriated to the bureau without regard to
22 fiscal year for the purposes of this chapter.

23 94923.1. This article applies to the following:

24 (a) Institutions, and students and former students of the
25 institutions, subject to this chapter.

26 (b) Institutions, and students and former students of the
27 institutions exempt under paragraph (7) of subdivision (a) of, and
28 under subdivision (b) of, Section 94874.

29 94923.2. It is the intent of the Legislature that, when a student
30 is enrolled in an institution that closes prior to the completion of
31 the student's program, the student shall have the option for a
32 teach-out at another institution approved by the bureau. The
33 bureau shall seek to promote teach-out opportunities wherever
34 possible and shall inform the student of his or her rights, including
35 payment from the fund, transfer opportunities, and available
36 teach-out opportunities, if any.

37 94923.4. In the event of the closure of an institution or a
38 teach-out, the bureau shall give priority, for payments from the
39 fund, to a student who transfers to another institution to complete
40 a course of study.

1 94923.5. *The bureau shall assess an institution, except for an*
2 *institution that receives all of its students' total charges from*
3 *third-party payers, for the purpose of compliance with the*
4 *provisions of this chapter that are related to the Student Tuition*
5 *Recovery Fund. A "third-party payer," for the purposes of this*
6 *article, means an employer, government program, or other payer*
7 *that pays a student's total charges directly to the institution when*
8 *no separate agreement for the repayment of that payment exists*
9 *between the third-party payer and the student. A student who*
10 *receives third-party payer benefits for his or her institutional*
11 *charges is not eligible for benefits from the Student Tuition*
12 *Recovery Fund.*

13 94923.6. (a) (1) *The amount assessed each institution shall*
14 *be calculated only for those students who are eligible to be*
15 *reimbursed from the fund and shall be based on the actual amount*
16 *charged each of these students for total tuition cost, regardless of*
17 *the portion that is prepaid. The amount of the assessment on an*
18 *institution shall be determined in accordance with subdivisions*
19 *(b) and (c).*

20 (2) *Each institution shall collect the amount assessed by the*
21 *bureau in the form of a Student Tuition Recovery Fund fee from*
22 *its new students, and remit these fees to the bureau during the*
23 *quarter immediately following the quarter in which the fees were*
24 *collected from the students, or from loans funded on behalf of the*
25 *students, except that an institution may waive collection of the*
26 *Student Tuition Recovery Fund fee and assume the fee as a debt*
27 *of the institution. The fees collected by the institution shall be*
28 *placed in a separate bank or trust account and not commingled*
29 *with any other moneys until the institution remits those fees to the*
30 *bureau. If the institution assumes the fee, this need not be placed*
31 *in a separate account. The student's subsequent disenrollment*
32 *shall not relieve the institution of the obligation to pay the fee to*
33 *the bureau, nor be the basis for refund of the fee to the student.*
34 *An institution may not charge a fee of any kind for the collection*
35 *of the Student Tuition Recovery Fund fee. An institution shall refuse*
36 *to enroll a student who has not paid, or made provisions to pay,*
37 *the appropriate Student Tuition Recovery Fund fee.*

38 (b) *A Student Tuition Recovery Fund fee shall be set at the rate*
39 *of three dollars (\$3.00) per thousand dollars of tuition charged,*
40 *rounded to the nearest thousand dollars.*

1 (c) *If, at any time, the balance in the Student Tuition Recovery*
2 *Fund is more than ten million dollars (\$10,000,000), net of the*
3 *estimated liability associated with any pending claims, the bureau*
4 *may reduce the amount of the assessment to a level less than three*
5 *dollars (\$3.00) per thousand dollars of tuition charged, rounded*
6 *to the nearest thousand dollars, or suspend collection of the fee*
7 *for a period determined by the bureau, so as to maintain a fund*
8 *balance of between ten million dollars (\$10,000,000) and*
9 *twenty-five million dollars (\$25,000,000). Prior to any reduction*
10 *in the assessment, the bureau shall demonstrate that amounts in*
11 *the fund would be reasonably sufficient to pay any pending or*
12 *future claims.*

13 (d) *The bureau may by regulation levy additional reasonable*
14 *special assessments on an institution under this section only if*
15 *these assessments are required to ensure that sufficient funds are*
16 *available to satisfy the anticipated costs of paying student claims.*

17 (e) *The assessments, fees, and special assessments shall be paid*
18 *into the Student Tuition Recovery Fund, and the deposits shall be*
19 *allocated, except as otherwise provided for in this chapter, solely*
20 *for the payment of valid claims to students.*

21 94923.7. *Moneys deposited in the Student Tuition Recovery*
22 *Fund are exempt from execution and may not be the subject of*
23 *litigation or liability on the part of creditors of those institutions*
24 *or students.*

25 94923.8. (a) *The bureau shall adopt a procedure allowing for*
26 *payments to the fund to be made through online transactions and*
27 *other electronic means.*

28 (b) *The bureau shall adopt audit and accounting procedures to*
29 *ensure that institutions fully pay the amounts that are due to the*
30 *fund.*

31 94923.9. *The bureau's costs of administration of the Student*
32 *Tuition Recovery Fund authorized by this article shall not be paid*
33 *from the fund, but shall be paid from the Private Postsecondary*
34 *Education Fund.*

35 94924. *In the event of a closure by any approved institution*
36 *under this chapter, any assessments that have been made against*
37 *those institutions, but have not been paid into the fund, shall be*
38 *recovered. Any payments from the fund made to students on behalf*
39 *of any institution shall be recovered from that institution.*

1 94925. *In addition to civil remedies, the bureau may order an*
2 *institution to pay previously unpaid Student Tuition Recovery Fund*
3 *fees or to reimburse the bureau for any payments made from the*
4 *fund in connection with the institution. Before any order is made*
5 *pursuant to this section, the bureau shall provide written notice*
6 *to the institution and notice of the right to request a hearing within*
7 *30 days of the service of the notice. If a hearing is not requested*
8 *within 30 days of the service of the notice, the bureau may order*
9 *payment. If a hearing is requested, Chapter 5 (commencing with*
10 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*
11 *Code shall apply, and the bureau shall have all powers prescribed*
12 *in that chapter. Within 30 days after the effective date of the*
13 *issuance of the order, the bureau may enforce the order in the*
14 *same manner as if it were a money judgment pursuant to Title 9*
15 *(commencing with Section 680.010) of Part 2 of the Code of Civil*
16 *Procedure.*

17 94925.5. *Payment of Student Tuition Recovery Fund fees is*
18 *due within 30 days of the bureau's demand for payment. A penalty*
19 *of 20 percent of the amount due shall be added for late payment.*
20

21 Article 14. *Orderly Institutional Closure and Teach-outs*
22

23 94926. *At least 30 days prior to closing, the institution shall*
24 *notify the bureau in writing of its intention to close. The notice*
25 *shall be accompanied by a closure plan, which shall include, but*
26 *not necessarily be limited to, all of the following:*

27 (a) *A plan for providing teach-outs of educational programs,*
28 *including any agreements with any other postsecondary*
29 *educational institutions to provide teach-outs.*

30 (b) *If no teach-out plan is contemplated, or for students who do*
31 *not wish to participate in a teach-out, arrangements for making*
32 *refunds within 45 days from the date of closure, or for institutions*
33 *that participate in federal student financial aid programs*
34 *arrangements for making refunds and returning federal student*
35 *financial aid program funds.*

36 (c) *If the institution is a participant in federal student financial*
37 *aid programs, it shall provide students information concerning*
38 *these programs and institutional closures.*

39 (d) *A plan for the disposition of student records.*

1 94927. An institution shall be considered in default of the
2 enrollment agreement when an educational program is
3 discontinued or canceled or the institution closes prior to
4 completion of the educational program. When an institution is in
5 default, student institutional charges may be refunded on a pro
6 rata basis if the bureau determines that the school has made
7 provision for students enrolled at the time of default to complete
8 a comparable educational program at another institution at no
9 additional charge to the student beyond the amount of the total
10 charges in the original enrollment agreement. If the institution
11 does not make that provision, a total refund of all institutional
12 charges shall be made to students.

13 94927.5. Prior to closing, an institution shall provide the
14 bureau with pertinent student records, including transcripts, as
15 determined by the bureau by regulation.

16
17 Article 15. Completion and Placement Requirements
18

19 94928. An institution shall report annually to the bureau, and
20 disclose to students the number and percentage of students in each
21 program who were scheduled upon enrollment to complete the
22 program in the preceding calendar year and that did complete the
23 program as scheduled. The rate shall be calculated by determining
24 the percentage of students enrolled in the program who were
25 originally scheduled, at the time of enrollment, to complete the
26 program in that calendar year and who successfully completed
27 the program. This information shall be documented and maintained
28 by the institution with all facts needed to substantiate the
29 information. An institution may include completion information
30 for students completing the program within 150 percent of the
31 original contracted time, but that information may not replace
32 completion information for students completing within the original
33 scheduled time.

34 94928.5. If an institution advertises or makes any
35 representation regarding student placement rates for a program,
36 the institution shall report annually to the bureau and disclose to
37 students the placement rate for the preceding calendar year. The
38 rate shall be calculated by determining the number and percentage
39 of students who successfully completed the program and obtained
40 employment within six months of completion or, if the program

1 *leads to a profession requiring licensure, within one year of*
2 *completion. This information shall be documented and maintained*
3 *by the institution with all facts needed to substantiate the*
4 *information.*

5 *94929. If an institution's accreditation agency has quantitative*
6 *student completion and placement requirements in its accreditation*
7 *standards, an institution is in compliance with this article by*
8 *complying with the accreditation standards.*

9 *94930. An institution shall use the data derived from the*
10 *regulatory standards or the accreditation standards in the School*
11 *Performance Fact Sheet, as established in Section 94907.*

12
13 *Article 16. Compliance, Enforcement, Process, and Penalties*
14

15 *94931. The bureau shall determine an institution's compliance*
16 *with the requirements of this chapter. When the bureau has reason*
17 *to believe that an institution may be out of compliance, it may*
18 *conduct an investigation of the institution. As part of its compliance*
19 *program, the bureau may perform unannounced inspections of*
20 *institutions. The bureau shall have the authority to require*
21 *institutions to comply with requests for reports and other*
22 *documents necessary to complete audits, investigations, inquiries,*
23 *and inspections. If the bureau believes that there may have been*
24 *a violation of this chapter or regulations adopted by the bureau,*
25 *the bureau shall conduct a timely investigation of the institution.*
26 *If the bureau determines, after completing an investigation, that*
27 *an institution has violated any applicable laws or regulations, the*
28 *bureau shall take action against the institution pursuant to this*
29 *article as it deems appropriate.*

30 *94931.1. The bureau, with the assistance and guidance of, and*
31 *in cooperation with, the Attorney General, shall develop an*
32 *enforcement program. The enforcement program shall include,*
33 *but not necessarily be limited to, all of the following:*

34 *(a) Initial and periodic training of bureau staff.*

35 *(b) The enforcement process shall ensure that all institutions*
36 *subject to this chapter are in compliance with this chapter and*
37 *that the bureau takes appropriate action, pursuant to this article,*
38 *against institutions not in compliance.*

1 (c) Site visits that include a review of records, inspection of
2 facilities, interviews of administrators, faculty and students, and
3 observation of class instruction.

4 (d) Audits, site visits, and investigations that are triggered by
5 complaints and where the bureau has reasonable cause to believe
6 an institution commits one or more acts constituting grounds for
7 discipline. The audits and site visits may be unannounced and may
8 include a qualitative review and assessment encompassing
9 minimum standards, interviews with administrators, faculty, staff,
10 and students, inspection of facilities, records, and records keeping,
11 and all records required to be maintained under subdivision (b)
12 of Section 94862, subdivisions (b) and (c) of Section 94899.7, and
13 Sections 94887 and 94920.1, or necessary to show compliance
14 with this chapter.

15 94931.3. The bureau shall promulgate regulations to implement
16 the intent of this article, including, but not limited to, the probation
17 and suspension of an approval to operate.

18 94932. The bureau may provide the institution with the
19 opportunity to remedy noncompliance, impose fines, place the
20 institution on probation, or suspend or revoke the institution's
21 approval to operate as it deems appropriate to the severity of an
22 institution's violations of this chapter, and the harm caused to
23 students. In addition to any other action that the bureau may take
24 under this chapter, the bureau may suspend or revoke an
25 institution's approval to operate because of the institution's failure
26 to pay Student Tuition Recovery Fund fees and pay penalties.

27 94933. As much as is practicable, the bureau shall seek to
28 resolve instances of noncompliance, including the use of alternative
29 dispute resolution procedures in Chapter 4.5 (commencing with
30 Section 11420.10) of Part 1 of Division 3 of Title 2 of the
31 Government Code.

32 94934. (a) As part of the compliance program, an institution
33 shall submit an annual report to the bureau, under penalty of
34 perjury, by July 1 of each year, or another date designated by the
35 bureau, and it shall include the following information for
36 educational programs offered in the reporting period:

37 (1) The total number of students enrolled by level of degree or
38 for a diploma.

39 (2) The number of degrees, by level, and diplomas awarded.

40 (3) The degree levels and diplomas offered.

1 (4) *Educational program completion rates.*

2 (5) *Educational program placement rates.*

3 (6) *The total charges for each educational program by period*
4 *of attendance.*

5 (7) *A statement indicating whether the institution is, or is not,*
6 *current in remitting Student Tuition Recovery Fund assessments.*

7 (8) *Additional information deemed by the bureau to be*
8 *reasonably required to ascertain compliance with this chapter.*

9 (b) *The bureau shall prescribe the annual report's format and*
10 *method of delivery.*

11 94935. (a) *Bureau staff who, during an inspection of an*
12 *institution, detect a minor violation of this chapter, or regulations*
13 *adopted pursuant to this chapter, shall issue a notice to comply*
14 *before leaving the institution. The bureau shall establish a*
15 *voluntary informal appeal process, by regulation, within one year*
16 *of the enactment of this chapter.*

17 (b) *An institution that receives a notice to comply shall have no*
18 *more than 30 days from the date of inspection to remedy the*
19 *noncompliance.*

20 (c) *Upon achieving compliance, the institution shall sign and*
21 *return the notice to comply to the bureau.*

22 (d) *A single notice to comply shall be issued listing separately*
23 *all the minor violations cited during the inspection.*

24 (e) *A notice to comply shall not be issued for any minor violation*
25 *that is corrected immediately in the presence of the bureau staff.*
26 *Immediate compliance may be noted in the inspection report, but*
27 *the institution shall not be subject to any further action by the*
28 *bureau.*

29 (f) *A notice to comply shall be the only means the bureau shall*
30 *use to cite a minor violation discovered during an inspection. The*
31 *bureau shall not take any other enforcement action specified in*
32 *this chapter against an institution that has received a notice to*
33 *comply if the institution complies with this section.*

34 (g) *If an institution that receives a notice to comply pursuant*
35 *to subdivision (a) disagrees with one or more of the alleged minor*
36 *violations listed in the notice to comply, an institution shall send*
37 *the bureau a written notice of disagreement. The agency may take*
38 *administrative enforcement action to seek compliance with the*
39 *requirements of the notice to comply.*

1 (h) *If an institution fails to comply with a notice to comply within*
2 *the prescribed time, the bureau may take administrative*
3 *enforcement action.*

4 (i) *A minor violation is a deviation from the requirements of*
5 *this chapter, or regulations adopted pursuant to this chapter, that,*
6 *in the determination of the bureau, has not or reasonably will not*
7 *result in harm to students and is not either:*

8 (1) *Committed knowingly, willfully, or intentionally.*

9 (2) *A repeated violation or a violation committed by a*
10 *recalcitrant violator that has engaged in a pattern of neglect or*
11 *disregard for the requirements of this chapter.*

12 94936. (a) *As a consequence of an investigation, the bureau*
13 *may issue a citation to an institution for violation of this chapter,*
14 *or regulations adopted pursuant to this chapter.*

15 (b) *The citation may contain either of the following:*

16 (1) *An order of abatement that may require an institution to*
17 *demonstrate how future compliance with this chapter or regulations*
18 *adopted pursuant to this chapter will be accomplished.*

19 (2) *Notwithstanding Section 125.9 of the Business and*
20 *Professions Code, an administrative fine not to exceed ten thousand*
21 *dollars (\$10,000) for each violation. The bureau shall base its*
22 *assessment of the administrative fine on:*

23 (A) *The nature and seriousness of the violation.*

24 (B) *The persistence of the violation.*

25 (C) *The good faith of the institution.*

26 (D) *The history of previous violations.*

27 (E) *The purposes of this chapter.*

28 (c) (1) *The citation shall be in writing and describe the nature*
29 *of the violation and the specific provision of law or regulation that*
30 *is alleged to have been violated.*

31 (2) *The citation shall inform the institution of its right to request*
32 *a hearing in writing within 30 days from service of the citation.*

33 (3) *If a hearing is requested, the bureau shall select an informal*
34 *hearing pursuant to Chapter 4.5 (commencing with Section*
35 *11445.10) of Part 1 of Division 3 of Title 2 of the Government*
36 *Code or a formal hearing pursuant to Chapter 5 (commencing*
37 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
38 *Government Code.*

1 (4) *If a hearing is not requested, payment of the administrative*
2 *fine is due 30 days from the date of service, and shall not constitute*
3 *an admission of the violation charged.*

4 (5) *If a hearing is conducted and payment of an administrative*
5 *fine is ordered, the administrative fine is due 30 days from when*
6 *the final order is entered.*

7 (6) *The bureau may enforce the administrative fine as if it were*
8 *a money judgment pursuant to Title 9 (commencing with Section*
9 *680.10) of Part 2 of the Code of Civil Procedure.*

10 (d) *All administrative fines shall be deposited in the Private*
11 *Postsecondary Education Administration Fund.*

12 94937. (a) *As a consequence of an investigation, the bureau*
13 *may place an institution on probation or may suspend or revoke*
14 *an institution's approval to operate for:*

15 (1) *Obtaining an approval to operate by fraud.*

16 (2) *Material or repeated violations of this chapter or regulations*
17 *adopted pursuant to this chapter that have resulted in harm to*
18 *students.*

19 (b) *The bureau shall adopt regulations governing probation*
20 *and suspension of an approval to operate.*

21 (c) *The bureau may seek reimbursement for the costs of an*
22 *investigation pursuant to Section 125.3 of the Business and*
23 *Professions Code.*

24 (d) *An institution shall not be required to pay the cost of*
25 *investigation to more than one agency.*

26 94938. (a) *If the bureau determines that it needs to make an*
27 *emergency decision to protect students, prevent misrepresentation*
28 *to the public, or prevent the loss of public funds or moneys paid*
29 *by students, it may do so pursuant to Chapter 4.5 (commencing*
30 *with Section 11460.10) of Part 1 of Division 3 of Title 2 of the*
31 *Government Code.*

32 (b) *The bureau shall adopt regulations to give this subdivision*
33 *effect pursuant to Section 11460.20 of the Government Code.*

34 94939. (a) *The bureau may bring an action for equitable relief*
35 *for any violation of this chapter. The equitable relief may include*
36 *restitution, a temporary restraining order, the appointment of a*
37 *receiver, and a preliminary or permanent injunction. The action*
38 *may be brought in the county in which the defendant resides or in*
39 *which any violation has occurred or may occur.*

1 (b) *The remedies provided in this section supplement, and do*
2 *not supplant, the remedies and penalties under other provisions*
3 *of law.*

4 94940. *As consequence of an adverse administrative action*
5 *against an institution, the institution may request a hearing*
6 *pursuant to Chapter 4.5 (commencing with Section 11445.10) or*
7 *Chapter 5 (commencing with Section 11500) of Part 1 of Division*
8 *3 of Title 2 of the Government Code.*

9 94941. (a) *An individual who has cause to believe that an*
10 *institution has violated this chapter, or regulations adopted*
11 *pursuant to this chapter, may file a complaint with the bureau*
12 *against the institution. The complaint shall set forth the alleged*
13 *violation, and shall contain any other information as may be*
14 *required by the bureau.*

15 (b) *Taking into account the nature and seriousness of the alleged*
16 *violation, the bureau shall take action to ascertain the facts and*
17 *to verify the complaint. The action may include interviewing*
18 *institution management, conducting an investigation, holding an*
19 *informal hearing, or other appropriate investigative activity.*

20 (c) *Upon the facts discovered, the bureau may take appropriate*
21 *administrative enforcement action.*

22 (d) *If the bureau finds that an institution's violation of this*
23 *chapter has caused damage or loss to a student or group of*
24 *students, the bureau may order the institution to provide*
25 *appropriate restitution to that student or group of students.*

26 94943. *The following violations of this chapter are public*
27 *offenses:*

28 (a) *Knowingly operating a private postsecondary institution*
29 *without an approval to operate is an infraction subject to the*
30 *procedures described in Sections 19.6 and 19.7 of the Penal Code.*

31 (b) *Knowingly providing false information to the bureau on an*
32 *application for an approval to operate is an infraction subject to*
33 *the procedures described in Sections 19.6 and 19.7 of the Penal*
34 *Code.*

35 94943.5. (a) *The Attorney General, a district attorney, or a*
36 *city attorney may make investigations as may be necessary to carry*
37 *out this chapter, including investigations of complaints. The bureau*
38 *may jointly bring actions as necessary to enforce this chapter,*
39 *including civil actions for injunctive relief.*

1 (b) *Nothing in this section or this chapter precludes the Attorney*
2 *General, a district attorney, or a city attorney from taking any*
3 *action each is otherwise lawfully authorized to take.*

4 94944. *An institution shall designate and maintain an agent*
5 *for service of process within this state, and provide the name,*
6 *address, and telephone number of the agent to the bureau. The*
7 *bureau shall furnish the agent's name, address, and telephone*
8 *number to a person upon request.*

9 94945. *Notwithstanding any other provision of law, the bureau*
10 *shall cite any person, and that person shall be subject to a fine not*
11 *to exceed fifty thousand dollars (\$50,000), for operating an*
12 *institution without proper approval to operate issued by the bureau*
13 *pursuant to this chapter.*

14 95945.1. (a) *Each institution subject to this chapter shall be*
15 *deemed to have authorized the bureau or accrediting agency to*
16 *provide to the Attorney General, any district attorney or city*
17 *attorney, or the Student Aid Commission, within 30 days of written*
18 *notice, copies of all documents and other material concerning the*
19 *institution that are maintained by the accrediting agency.*

20 (b) *Within 30 days of receiving written notice from the Attorney*
21 *General, any district attorney or city attorney, or the Student Aid*
22 *Commission, an accrediting agency shall provide, free of charge,*
23 *the requesting official with all documents or other material*
24 *concerning an institution accredited by that accrediting agency*
25 *that are designated specifically or by category in the written notice.*

26 (c) *If the Attorney General, any district attorney or city attorney,*
27 *or the Student Aid Commission is conducting a confidential*
28 *investigation of an institution and so informs the accrediting*
29 *agency, the accrediting agency shall not inform that institution of*
30 *the investigation.*

31 (d) *If an accrediting agency willfully fails to comply with this*
32 *section, the accrediting agency shall be liable for a civil penalty*
33 *of not less than two thousand five hundred dollars (\$2,500) or*
34 *more than twenty-five thousand dollars (\$25,000) for each*
35 *violation. Penalties awarded pursuant to this section shall be*
36 *deposited in the Private Postsecondary and Vocational Education*
37 *Administration Fund or any successor fund.*

38 94945.2. *If any person willfully violates this chapter and the*
39 *violation results in the closure of an institution, that person shall*
40 *pay to all students of the closed institution full refunds or full*

1 compensation for actual damages resulting from the closure that
2 were not paid by the closed institution.

3 94945.3. If the bureau determines after an investigation that
4 an institution has violated this chapter, the bureau may order the
5 institution to pay the costs and expenses incurred in connection
6 with the investigation and any civil or administrative proceeding
7 involving the violation that was investigated, including charges
8 made by the Attorney General for his or her services, and any
9 expenses incurred by a district attorney. Before any order for the
10 payment of costs and expenses is made under this section, the
11 bureau shall provide the institution with written notice, including
12 notice of the institution's right to request a hearing within 15 days
13 of service of the notice. If a hearing is not timely requested, the
14 bureau may order payment. If a hearing is requested, the bureau
15 shall select an informal hearing pursuant to Chapter 4.5
16 (commencing with Section 11445.10) of Part 1 of Division 3 of
17 Title 2 of the Government Code or a formal hearing pursuant to
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division
19 3 of Title 2 of the Government Code. Within 30 days after the
20 effective date of the order, the bureau may enforce the order as if
21 it were a money judgment pursuant to Title 9 (commencing with
22 Section 680.10) of Part 2 of the Code of Civil Procedure.
23 Alternatively, the bureau may seek the costs and expenses allowed
24 under this section in a civil proceeding. An institution shall not be
25 required to pay the same costs and expenses incurred in connection
26 with the investigation and any civil or administrative proceeding
27 to more than one investigating agency.

28 29 Article 17. Severability 30

31 94946. The provisions of this chapter are severable. If any
32 provision of this chapter or its application is held invalid, that
33 invalidity shall not affect other provisions or applications that can
34 be given effect without the invalid provision or application.

35 94946.5. This chapter shall be liberally construed to effectuate
36 its intent and achieve its purposes.

Article 18. Reporting

94947. The bureau shall provide regular updates to the Legislature by participating in annual oversight hearings conducted by the appropriate policy committees and budget subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress in adopting and enforcing regulations and the provisions of this chapter.

94948. On or before July 1, 2013, the Office of the Legislative Analyst shall conduct a comprehensive review of the bureau and report to the Legislature and the Governor on the extent to which the bureau has implemented the provisions of this chapter.

94948.5. (a) It is the intent of the Legislature that all of the following occur:

(1) The Bureau of State Audits, through an audit request approved by the Joint Legislative Audit Committee, conducts an audit pursuant to Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code that assesses the extent accreditation by accrediting bodies provides sufficient assurance that the various goals and requirements of this chapter are met, including, but not limited to, the degree to which the accreditation process assures the quality and effectiveness of education at accredited institutions and affords meaningful and effective student protections.

(2) In conducting the audit, the Bureau of State Audits protects the confidentiality of information obtained from private individuals and organizations pursuant to subdivision (a) of Section 8545 of the Government Code.

(3) In conducting the audit, the Bureau of State Audits may perform, but is not limited to, all of the following acts:

(A) Examine accrediting bodies that accredit institutions which are subject to this chapter. These shall include a sample of regional and national accrediting bodies. The auditor shall recognize that the bureau by statute must approve accredited schools and rely on that accreditation to the extent that those schools comply with this chapter.

(B) To the extent deemed necessary to meet the audit standards the Bureau of State Audits is required to comply with Section 8546.1 of the Government Code, contacting and obtaining

1 *information from institutions or programs operated by institutions*
2 *accredited by the accrediting bodies.*

3 *(4) The Bureau of State Audits issues a public report on the*
4 *results of the audit not later than December 31, 2011.*

5 *(b) It is further the intent of the Legislature that all of the*
6 *following occur:*

7 *(1) The accrediting bodies, and any of the institutions or*
8 *programs operated by those institutions accredited by those bodies,*
9 *provide the Bureau of State Audits with full access to any*
10 *information, records, or individuals that the State Auditor*
11 *determines are necessary to perform the audit specified in*
12 *subdivision (a), in a manner consistent with Section 8545.2 of the*
13 *Government Code.*

14 *(2) Upon receiving the information provided pursuant to*
15 *paragraph (1), the Bureau of State Audits protects the*
16 *confidentiality of that information as required by subdivision (a)*
17 *of Section 8545, Section 8545.1, and subdivision (b) of Section*
18 *8545.2 of the Government Code. In keeping information*
19 *confidential as required by those provisions, the Bureau of State*
20 *Audits shall provide reasonable assurances to the accrediting*
21 *bodies and institutions that any information used to support the*
22 *conclusions and facts in the audit report will be used in a manner*
23 *that does not disclose confidential information that the accrediting*
24 *body or the institution reasonably claims is not subject to public*
25 *disclosure under state or federal law.*

26 *(3) If any of the entities described in paragraph (1) refuse to*
27 *provide the Bureau of State Audits access to the information,*
28 *records, or individuals the Bureau of State Audits determines are*
29 *necessary to perform the audit, the Bureau of State Audits notifies*
30 *the Legislature and the Governor, in writing, of that fact, and that*
31 *notification shall become a public record.*

32 *(c) It is the intent of the Legislature that this article be amended*
33 *before January 1, 2012 to reflect the findings and recommendations*
34 *of the report completed pursuant to this section.*

35
36 *Article 19. Termination*
37

38 *94949. This chapter shall remain in effect until January 1,*
39 *2015, and as of that date is repealed, unless a later enacted statute,*

1 *that becomes operative on or before January 1, 2015, deletes or*
2 *extends the dates on which it becomes repealed.*

3 *SEC. 21. Section 11105.8 is added to the Vehicle Code, to*
4 *read:*

5 *11105.8. Beginning January 1, 2009, a person may not own,*
6 *operate, or provide instruction for an institution for the driving of*
7 *motortrucks of three or more axles that are more than 6,000 pounds*
8 *unladen weight unless all of the following conditions are met:*

9 *(a) The institution has been approved by the Department of*
10 *Motor Vehicles.*

11 *(b) The institution, at the time of application and thereafter,*
12 *maintains both of the following:*

13 *(1) Proof of compliance with liability insurance requirements*
14 *that are the same as those established by the Department of Motor*
15 *Vehicles for a driving institution owner, pursuant to Section 11103,*
16 *unless the Department of Motor Vehicles deems it necessary to*
17 *establish a higher level of insurance coverage.*

18 *(2) A satisfactory safety rating by the Department of the*
19 *California Highway Patrol is established pursuant to Division*
20 *14.8 (commencing with Section 34500).*

21 *(c) The institution, at all times, shall maintain the vehicles used*
22 *in driving training in safe mechanical condition. The institution*
23 *shall keep all records concerning the maintenance of the vehicles.*

24 *(d) The driving instructions meet the requirements set forth in*
25 *Section 11104.*

26 *(e) Any other terms and conditions required by the Department*
27 *of Motor Vehicles to protect the public safety or to meet the*
28 *requirements of this chapter.*

29 *SEC. 22. No reimbursement is required by this act pursuant*
30 *to Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section 17556 of*
35 *the Government Code, or changes the definition of a crime within*
36 *the meaning of Section 6 of Article XIII B of the California*
37 *Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, August 20, 2007. (JR11)**

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